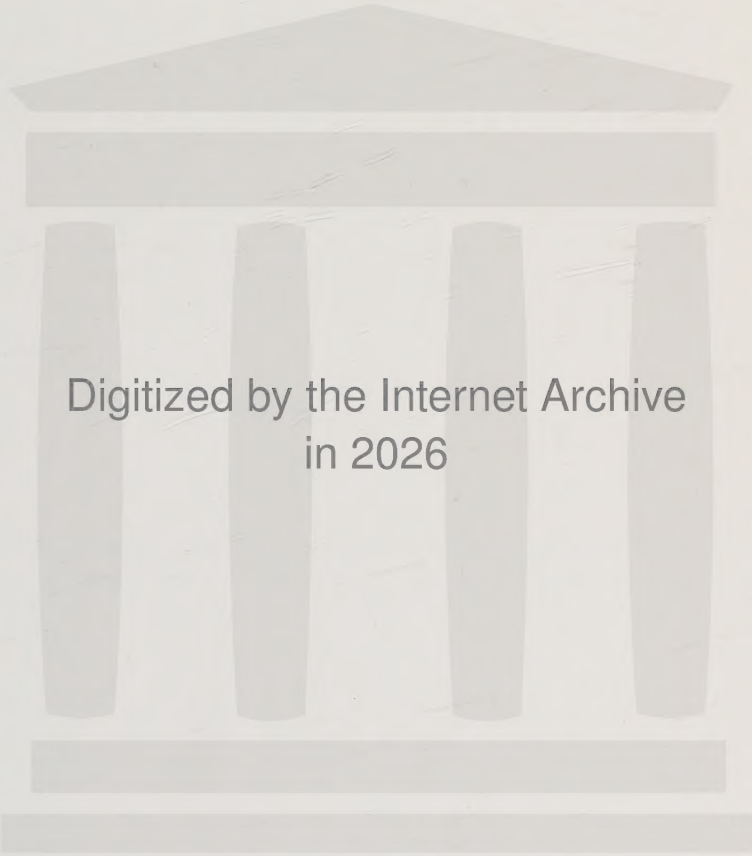

THE ROLE OF THE GOVERNOR IN MICHIGAN IN THE ENACT- MENT OF APPROPRIATIONS

JOHN A. PERKINS



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THE ROLE OF THE GOVERNOR OF MICHIGAN IN THE ENACT- MENT OF APPROPRIATIONS

BY

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Instructor in Political Science

A dissertation submitted in partial fulfillment of the requirements
for the degree of Doctor of Philosophy in the University of Michigan.

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FOREWORD

THE *Michigan Governmental Studies* are published by the Bureau of Government for the purpose of providing citizens of Michigan and other interested persons with information on leading governmental problems. In these studies, as in other publications of the Bureau, the greatest care is taken to state all of the pertinent facts with fullness and accuracy and to draw conclusions with scientific impartiality and fairness. It is difficult to accomplish this objective in the complex and controversial field of contemporary government, and the authors of these reports must necessarily assume responsibility for their interpretations and conclusions.

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ROBERT S. FORD

Director, Bureau of Government

PREFACE

I WISH to express my indebtedness to those persons who have given aid and counsel in the preparation of this study. Professor Arthur W. Bromage first suggested the interesting possibilities of a study of the gubernatorial office in Michigan, and his scholarly guidance and friendly encouragement have been of greatest help throughout the work. Professors Joseph R. Hayden, James K. Pollock, Harold M. Dorr, and George C. S. Benson gave me the benefit of their constructive criticism at various stages of the undertaking. I wish to thank Dr. Ford, of the Bureau of Government, for his co-operation and assistance in the work incident to publication.

To the numerous state officials, past and present, who gave generously of their time and experience in order to answer my many questions, I express my deep appreciation. Their co-operation made the difficult task of collecting much of the material a pleasant one.

Without the patient and able assistance of my wife, the writing of the report would have been greatly prolonged.

For any errors, I alone am responsible.

JOHN A. PERKINS

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INTRODUCTION

IT WAS ONCE avowed by political thinkers that government could be held responsible to the people: first, by placing faith in legislatures and curbing executives, and second, by making the government weak in accordance with the laissez-faire principle. These two tenets of earlier political belief have now been overthrown.

Corruption and extravagance revealed the fallacy of the first belief and led to curtailment of the enormous power of the legislature early in the nineteenth century. At the same time, new constitutional provisions made the governor elective by the people and armed him with the veto power, which increased his legislative functions. While the power of the governor as a legislator was increasing, his control of administration suffered a decline as a result of the practice of electing other state executive officers besides the governor, thereby depriving him of any effective means of controlling his nominal subordinates. Thus, the anomaly developed that the chief executive, who was supposedly responsible for administration, was actually vested with powers that made him, in fact, chief legislator. This constitutional development, which came to be almost universally true in the American commonwealths, has been exemplified in Michigan.

In the twentieth century, the second political tenet was abandoned when the states enlarged their spheres of activities by extending services and regulating matters once held sacred to the individual. This action has also tended to increase the power of the governor—this time in the administrative sphere. A number of states in recent years have reorganized their administration to approximate the executive pattern of the Federal Government. They realized, with Hamilton, that “energy in the Executive is a leading character in the definition of good government.”¹

Insofar as the administrative structure of Michigan must re-

¹ Alexander Hamilton, *The Federalist* (New York, 1889), No. LXX: 436.

flect the addition of new administrative agencies, one might expect the governor's role in state affairs to be enlarged correspondingly. The legislature blocked the possibility of enlarged administrative authority by countering the governor's appointive power with senatorial confirmation and by extending the terms of office of subordinates beyond the two-year tenure of the executive. Other familiar devices have been incorporated in the statutes to weaken the power of the executive, and when these were combined with the traditional "split executive" under which the people elect seven other important state officers, the position of the governor in Michigan came to hold small possibilities for effective leadership in administration. In 1921 there was a reorganization in Michigan, but it was by no means thorough.² Since that time no real centralization has taken place which would allow the governor to become chief administrator.

Supposedly, the governor participates in two functions of government, namely, the formulation and the execution of public policy. In connection with the latter function the extent of his participation varies directly with the extent to which he has been made chief administrator by statutory or constitutional provision. Inasmuch as he has not been given the needed authority in Michigan, the greatest influence the governor has exerted in the government of the state has been in the shaping of broad general questions of public policy. In legal contemplation, construction of public policy in Michigan rests with the legislature. As a matter of practical politics and even through legal recognition, the chief executive frequently has established himself as a power in the legislature.

Students of government have expended no little energy in observing and reporting on the operation of the gubernatorial office under various types of administrative reorganization. On the other hand, there has been no comparable investigation of the chief executive in states like Michigan in which no admin-

² A. E. Buck, *The Reorganization of State Governments in the United States* (New York: Columbia Univ. Press, 1928), pp. 131 ff.

istrative reorganization has taken place and the governor is primarily a legislator.

With this thought in mind, a case study of the influence of the governor in Michigan on appropriation legislation has been undertaken. Alfred E. Smith, former governor of the state of New York, is of the opinion that "there is no better way for a legislator or private citizen to become acquainted with the whole business of the state . . . than to carefully study the appropriation bill." It is believed that this same type of legislation offers the best opportunity to study the role played by the governor in the legislative process and in state government as a whole. Certainly, control of the public purse has been considered to be a cardinal power of the state legislature. Therefore, the extent to which the governor is a factor in determining this legislative product is of paramount importance.

It is in the matter of appropriation of funds that the governor has been given his broadest powers in connection with the legislative process. The executive budget and the item veto have enlarged the governor's legal authority in this field of legislation. In Michigan the veto has been buttressed at times by giving the executive the additional authority to cut appropriations to keep expenditures within revenues; and for twenty years he has also been a controlling factor in emergency appropriations. The governor has become so involved in the legislative process of appropriation in Michigan that he is often held politically responsible for the entire financial condition of the state. It is a question, however, whether or not the chief executive in Michigan has had enough power conferred upon him to hold him accountable for this.

The question of who is responsible has taken on greater significance in recent years. In 1908, when the present Michigan constitution was adopted, total disbursements for the state amounted to \$14,573,154 as compared with \$247,082,033 for the year ending June 30, 1939.³ In the two decades from 1910 to

³ Not all of this latter amount was spent by the state government; \$121,499,487, or 48 per cent, went to aid local units of government. For a study of this recent practice and the activities which have called for greater

1930 the per capita outlay of the state increased from \$4.59 to \$27.46. Until after World War I the increase was fairly gradual, and it was not until 1921 that the financial expenditures of Michigan took a leap. The per capita figure was \$9.89 in 1920, and the following year it was up to \$14.34.

The spendings of the state government in the first three decades have risen less sharply in comparison with the value of taxable property than in comparison with population. On the basis of per capita outlay and rate of disbursements per thousand dollars of equalized valuation, it seems that 1921 marks the beginning of the "modern era" in Michigan expenditures. It is from this year that greatest attention has been focused in this study, but in some instances to gain the proper perspective for the recent period it has been necessary to bring the entire experience of the executive under the constitution of 1908 within the range of this study.

There is no method of exact analysis of the general influence of the governors on the appropriation process in Michigan from 1920 to 1940. This process, so far as the present study is concerned, is confined to the preparation and initiation of the expenditure plan and the authorization of that plan by the legislature. A review and appraisal of the effectiveness of the executive in this sphere cannot be carried out within the library. Statutes, legislative journals, and other official reports have been indispensable, of course, but extensive correspondence and helpful interviews have made this investigation something more than a desk study. Constitutional powers are considered in the first three chapters, which deal with the messages, special sessions, and vetoes. The next three chapters deal with the statutory authority given the governor over the formulation of the budget and his part in making emergency appropriations. These are the legal powers that afford the governor opportunities to influence legislation. Inasmuch as no picture of the role of the governor would be complete without evaluating his

expenditures in recent years, see Robert S. Ford, "Financing Michigan's Government," *Mich. Pamphlets*, No. 2 (1939).

political influence, this subject has been given extended treatment in Chapter VII. The 1941 legislative session has been utilized to illustrate the exercise of these several various powers in one legislative session. A summary of findings, together with conclusions, is given in the final chapter.

I

THE RECOMMENDATIONS AND STATUTORY ACCOMPLISHMENTS OF THE GOVERNOR

THE CONSTITUTIONAL provision that the governor "shall communicate by message to the legislature . . . the condition of the state and recommend such measures as he may deem expedient"¹ offers him an opportunity to lay the groundwork for his financial program. For more than two decades these communications have outlined definite recommendations and made specific suggestions for appropriations which the administration proposed for enactment in the ensuing fiscal period. Even before 1918, Michigan governors invariably asserted themselves on expenditures, but their interest in the subject was confined, for the most part, to economy. John Fitzgibbon wrote in 1931: "For seventy years Michigan's governors have in their inaugural messages to the legislature stressed the same thing, to exercise economy and help keep down appropriation to actual necessities."² In 1911 Governor Chase S. Osborn gave his message a familiar ring by recommending the exercise of the closest economy in the management of the business of the state. Unlike his predecessors he did not stop there; he recognized that there had been "a shifting of legislative responsibility to the governor,"³ and he went so far as to recom-

¹ *Mich. Constitution*, 1908, Art. VI, sec. 5.

² *The Detroit News*, Jan. 18, 1931, p. 4. Fitzgibbon began reporting sessions of the Michigan State Legislature in 1895. Except for a few years as a Washington correspondent in the early part of this century, he represented *The Detroit News* at the state capital. George W. Stark of the same paper in a letter to the author had this to say of Fitzgibbon: "Everyone of our own time remembers him with affection and tremendous admiration for his peculiar newspaper talent. Never a brilliant writer, he was thoroughly accurate. He had a prodigious memory and was a veritable mine of information respecting state and national politics. He enjoyed the confidence of more government officials than most newspaper men do."

³ G. N. Fuller, ed., *Messages of the Governors of Michigan* (Lansing: Mich. Hist. Comm., 1927), IV: 577.

mend "that the number of legislative employees . . . be reduced to the lowest workable point, without the slightest consideration for patronage."⁴ The declared policy of his administration was again to place the state on an even financial keel through vigorous economy, a reasonable budget, and careful analysis of proposed appropriations.⁵ He had the satisfaction of reporting the accomplishment of that policy at the close of his term, when the state's deficit of nearly a million dollars was superseded by a surplus in the treasury of about the same amount.⁶ Governor Osborn's messages mark the beginning of a new and more vigorous interpretation of the role to be played by the governor in finance.

Six years later, in the second administration of Governor Albert E. Sleeper, the tendency for the governor to speak with greater exactitude and frequency on matters of appropriation is even more apparent. The tone of the governor's recommendation indicated that money should be expended, and the affirmative phrase: "I recommend that the Legislature pass this appropriation," interspersed the customary economy clichés. This new note was sounded in Sleeper's inaugural address in 1919. He urged the legislature to make adequate grants for the growing educational institutions, crowded hospitals, and homes for the handicapped.⁷ At the same time, Sleeper suggested the addition of at least \$100,000 to a federal grant for scientific treatment of venereal disease.⁸ In a special message he earnestly recommended "that steps be taken at once by the legislature to acquire the land necessary to establish a great chain of State parks bordering our rivers and lakes . . ."⁹ These steps would not lead far unless appropriations were made. Other excerpts could be given, but those already cited are sufficient to indicate the new leadership the governor was proffering in appropria-

⁴ *Ibid.*, p. 579.

⁵ *Ibid.*, pp. 596-97.

⁶ *Ibid.*, p. 635.

⁷ *Ibid.*, p. 733.

⁸ *Ibid.*, p. 736.

⁹ *Ibid.*, p. 736.

tions. The message had become the vehicle through which the executive conveyed his specific recommendations, and by subsequent examination of statutes it will be discovered that his words were more frequently heeded than disregarded by the legislative branch.

It is by his message that the Michigan executive enters into the legislative process. Not until after the first World War did the governor become an aggressive initiator of appropriations, but since that time the recommending power has become a positive force in securing such legislation. On the surface the power appears to be merely the right to make suggestions which have no more inherent force and superiority than the remarks of a legislator. In reality, the prestige of the office, the ability to voice the state-wide public demand, and other factors increasing his grip on legislative machinery give tremendous weight to the governor's utterances. It is important to remember, too, that when a governor recommends an expenditure he assumes, to a certain extent, responsibility for enactment of his proposal. As a means of securing some idea of the governor's success in converting his program into statutes, the governor's recommendations will be compared with appropriations enacted for the same biennium, beginning with the Groesbeck administration in 1921.

GROESBECK'S FIRST TERM

In 1921 Groesbeck discussed state taxation and finance at length in his inaugural address. Although he did not recommend that the \$72,814,103 requested for the biennium be appropriated *in toto*, he presented the facts that the legislators "may realize the seriousness of the situation regarding our financial and taxation problems, and, to emphasize the necessity of giving most earnest consideration to appropriations for the biennial period."¹⁰ He explained:

It will avail us nothing to criticize the policies of the past, which it is alleged have been largely instrumental in bringing about these conditions. We must deal with them as we find them, and formulate

¹⁰ *Ibid.*, p. 777.

a fiscal policy which will not only take care of the reasonable expenses of state administration, but allow the building of such necessary extensions to our institutions as is consistent with reasonable demands. If it is true that the University, for instance, needs some sixteen million dollars to replace obsolete structures . . . then the question is how soon shall this work be started. . . .¹¹

He had already disclosed that for 1922 alone an appropriation of \$17,059,541 had been requested for capital outlay, which exceeded the total state tax levy on property for 1920. These figures on requests are more remarkable in view of the state deficit of approximately \$6 million. Groesbeck at the same time proposed "a state reorganization program which would reduce a considerable portion [of state expenses] attributable to extravagance and waste."

The reorganization which was achieved was termed a "make-shift of doubtful value,"¹² but it may have accomplished small savings and freed some funds for actual necessities.¹³ At any rate, it was estimated that the total appropriation was increased only \$639,000 over that of the previous biennium. In view of the many requests, a larger boost in expenditures might have been expected. State institutions and departments as a whole received about the same appropriations as they had in the two preceding years. Economic conditions in 1921 impelled both houses to pare appropriation bills to absolute necessities. The policy of no increase in salaries was suspended, however, when the governor's proposal for an increase in the salary of the members of the State Supreme Court was approved. An appropriation was passed to meet the \$6 million deficit anticipated by the administration. Legislation was passed to set up sinking

¹¹ *Ibid.*

¹² Lent D. Upson, "Unscrambling Michigan's Government," *Nat. Municipal Rev.*, X (1921): 361-62.

¹³ J. M. Jacobson, ("Evaluating State Administrative Structure," *Amer. Pol. Sci. Rev.*, XXII [1928]: 929) concluded that it is difficult to prove that a specific administrative change has brought about a decrease in expenditures. Four factors which militate against this are: lack of comparative data, contraction and expansion of state activities, increases in salaries, and changes in the value of the dollar for state purchases.

funds and pay interest on the \$50 million highway bond issue, which had been approved by the people in April, 1919. Governor Groesbeck supported a bill, which was passed, imposing a specific tax on corporations. The estimated yield was about \$5 million a year.¹⁴ This revenue was to be used exclusively for enlargement and rehabilitation of state institutions until the work was completed.

Disagreements on the appropriations for the University of Michigan and for the four state normal schools continued until well into the early morning hours of the day of adjournment. In the governor's office the House conference committee, backed by the majority members of the ways and means committee, wanted to hold the appropriations substantially below the figures demanded by the governor and the Senate finance committee. At 2:00 A.M. when agreement seemed impossible, Governor Groesbeck sent for Representative James D. Jerome of Detroit, chairman of the House ways and means committee, and explained the situation. The chairman was inclined to hold with his committee. The governor then spoke plainly:

If we don't appropriate enough money now it will simply mean deficiency bills next year and I am not going to stand for it. The state has been going along in this way long enough, with deficiency bills piling up year after year. The legislature must give the institutions sufficient funds to permit them to operate.¹⁵

The committee was quickly called together, and soon it was announced that the House conference committee would concede to the demands. The amount granted was only \$500,000 less than originally recommended, and all the money was to come from the new corporation tax. For buildings under construction

¹⁴ *Public Acts* (hereinafter cited as *P.A.*) of the Legislature of the State of Michigan 1921, No. 85. *The Detroit News* (May 1, 1920, p. 20) explained: "A new and important source of state revenue is created by the corporation tax law, worked out by Professor David Friday, of the University of Michigan, in conjunction with Governor Groesbeck and the Administrative Board. The act levies an annual tax of $3\frac{1}{2}$ mills on each dollar of paid up capital of a corporation, the maximum tax on any corporation being \$10,000."

¹⁵ *The Detroit News*, April 30, 1921, p. 2.

and buildings planned at the four normal schools, \$1,550,000 was granted. The total appropriation for the years 1922 and 1923 was about \$40 million. The administration had "easy sailing," and headlines read: "Whatever the governor wanted, he easily got."¹⁶

One administration measure, however, was killed in conference committee. The measure would have permitted the State Administrative Board to transfer appropriations. The intent of the bill was to make it possible for the board to use funds appropriated for a specific purpose for other purposes provided it was found that too much had been appropriated. Representative Warren explained: "Some of the members of the Legislature thought that the budget had not been perfected and that such a measure would simply place a handicap on its development."¹⁷

GROESBECK'S SECOND TERM

One-half of Groesbeck's second inaugural message in 1923 was devoted to a consideration of financial problems and was high-lighted by the announcement that the State Treasury was out of debt.¹⁸ The governor indicated that a surplus of more than \$10 million was available for unspecified general purposes, even though it had been necessary to expend considerable sums to meet the lack of housing facilities at the Lapeer State Home and Training School and the Ionia and Marquette prisons.

Three major fiscal issues confronting the state were outlined by the governor: First, \$1.8 million should be provided annually to pay the interest and eventually liquidate a \$30 million bond issue voted as a soldiers' bonus, and an addition \$2 million should be made available to effect a settlement in full of all outstanding claims. Secondly, Groesbeck's favorite project, the highway building and maintenance program, needed large funds. Appropriations were required to complete the road building program as expeditiously as possible in view of federal

¹⁶ *Ibid.*, May 1, 1921, p. 20.

¹⁷ *Ibid.*, p. 13.

¹⁸ Fuller, *op. cit.*, pp. 800-805.

matching projects, and in order to fulfill the state's moral obligation to pay the counties \$7 million in promised rewards for road building. Additional requirements included \$4 million yearly for interest and sinking fund payments on the highway debt, \$2 million for road maintenance, \$500,000 for bridge construction and maintenance, and \$300,000 for highway departmental administration. The third fiscal demand arose from "an urgent need for additional buildings at many institutions." Groesbeck mentioned specifically the requests of the University of Michigan and Michigan State College and pointed out the pressing need for completing the University Hospital and the Women's Training School at Okemos. A new prison at Jackson was also recommended "as soon as the funds can be obtained."¹⁹

The outcome of these specific appeals by the chief executive is readily traced in the statutes. The governor's first recommendation relative to the soldiers' bonus was only partly followed. Nothing was appropriated for payment of interest and principal on these obligations at the regular session, and only three-quarters of the \$2 million requested for settlement of additional claims was forthcoming.²⁰

The fate of the highway recommendations of the governor was tied to the administration's automobile weight tax bill. Groesbeck had defeated the farmer-delegation's substitute gasoline tax bill and incurred their wrath. He held that enactment of the weight tax bill would accomplish the following purposes:

(1) Provide the necessary money to establish a sinking fund from which both principal and interest of the fifty million dollar bond issue can be paid, (2) Provide for the distribution of at least four million dollars to counties for the purpose of paying back state rewards, (3) Relieve general property from taxation for highway purposes, (4) Finance the highway program and insure its continuance upon a substantial and business basis.²¹

This bill passed the Senate by a vote of twenty-four to six, but animus in the House brought defeat by a vote of fifty-six to

¹⁹ *Ibid.*

²⁰ *P. A.*, 1923, No. 77.

²¹ Fuller, *op. cit.*, pp. 812-13.

forty-one. The rest of the highway appropriations had been held back until the House had taken action on the automobile weight tax bill, for this bill carried the requested \$2 million for road maintenance. Representative Warner, of Ypsilanti, moved to insert the needed maintenance item in the highway bill, but the amendment was decisively defeated, and the bill was passed without provision for highway maintenance for the next two years.²² Funds for administration of the Highway Department and \$1 million for bridge construction were appropriated as requested.²³

The third group of expenditures which the governor endorsed were for buildings for state institutions. The full amount needed for completion of the University Hospital was appropriated; in addition the University received \$1.5 million, or about one-fifth of the total request (\$7,277,000).²⁴ Michigan State College was voted \$700,000, or approximately 50 per cent of the amount sought.²⁵ An omnibus building bill, carrying appropriations for buildings and improvements at virtually all state penal, correctional, hospital, and welfare institutions carried an appropriation of \$2,976,061. Two institutions especially favored by the Governor's message, the Women's Training School and Jackson Prison, were given \$192,000 and \$400,000 respectively.²⁶ The disagreement over the omnibus building bill centered on the Senate amendment authorizing funds for improvement of the Industrial School for Boys at Lansing. The city objected to the School and attempted to defeat the appropriation on the ground that if it passed, the institution would be located permanently within the city limits. Despite strong pressure the legislature adhered to the governor's viewpoint.²⁷

Judged by Groesbeck's first administration, his second term

²² *Mich. House Journ.*, 1923, I: 649.

²³ *P. A.*, 1923, No. 315.

²⁴ *Ibid.*, No. 310.

²⁵ *Ibid.*, No. 30.

²⁶ *Ibid.*, No. 311.

²⁷ *The Detroit News*, May 7, 1923, p. 6.

may seem to be far less triumphant; actually, he was successful in seven out of ten recommendations.

GROESBECK'S "HARMONY" TERM

At the opening of his third term in 1925, Governor Groesbeck said: "The situation with reference to the general finances of the state practically remains the same as it was two years ago." He reported a very substantial reduction in the general property tax collections and a decrease in estimated revenues from other sources. Emergency expenditures had been made to take care of an increased number of inmates in state institutions, but a substantial surplus for the year was forecast. For the next biennium, highway improvements were urged, and in ten instances new building needs were cited. After this recital the governor summarized: "You can easily conclude that our state financial difficulties are confined to two things: new roads and new buildings. The first can be readily disposed of; the second will require much time and patient consideration."²⁸ The first act of the session disposed of the first monetary problem of the state. Section 34 appropriated money as follows:

(a) To pay the interest on and to create a sinking fund to retire state highway bonds. . . . one million, two hundred thousand dollars; (b) For maintenance of state trunk line, federal aid and non-trunk line highways, two million dollars; (c) For building trunk line bridges, including grade separations, one million dollars; (d) For non-trunk line highway maintenance and for non-trunk line bridges, five hundred thousand dollars; (e) For opening, widening and improving state trunk line and federal aid highways, all sums in said state highway funds not otherwise appropriated.

Of the ten instances in which the governor recognized special building needs, the legislature saw fit to appropriate money to alleviate those needs in nine cases. For example, the Women's Training School received \$112,500;²⁹ Coldwater Public School, \$100,000;³⁰ the industrial schools for delinquents, \$255,250;³¹

²⁸ Fuller, *op. cit.*, p. 822.

²⁹ *P. A.*, 1925, No. 379.

³⁰ *Ibid.*, No. 252.

³¹ *Ibid.*, No. 298.

University of Michigan, \$1,800,000;³² Michigan State College, \$1,041,000;³³ normal colleges, \$1,214,200;³⁴ state hospitals, \$546,000;³⁵ Jackson Prison, \$1,000,000;³⁶ and \$250,000 was appropriated for a new tuberculosis sanatorium.³⁷

The question of rebuilding the state tuberculosis sanatorium at Howell caused an appropriation controversy during the session, but the governor called a conference of the Senate finance committee, the House ways and means committee, Lieutenant-Governor George Welsh, Speaker Fred B. Wells, and Henry Croll, Jr., Director of the Budget.³⁸ The act left the selection of a site to two members of the House and two from the Senate.³⁹

Upon adjournment the session was dubbed the "harmony session," for no other session in many years, with the possible exception of that of 1921, closed with quite the degree of cordial feeling between the chief executive and members of both branches of the legislature. The most important recommendations of the governor's third inaugural message were enacted into law.⁴⁰

Groesbeck commented on his six years' experience:

It was all quite simple, easily handled, and after we got things going there was not a great deal of hard work involved. In fact, it was a lot of fun for most of the fellows involved and, I thought, quite educational and beneficial. After all, you know, it is not every soul who is plunged into an office who is familiar with its responsibilities. It took me a long time to learn how to do the job and when I quit I was still studying and learning.⁴¹

One must agree with Governor Groesbeck, for his success did

³² *Ibid.*, No. 335.

³³ *Ibid.*, No. 324.

³⁴ *Ibid.*, No. 367.

³⁵ *Ibid.*, No. 379.

³⁶ *Ibid.*, No. 378.

³⁷ *Ibid.*, No. 357.

³⁸ *The Detroit News*, April 3, 1925, p. 12.

³⁹ *P. A.*, 1925, No. 357, sec. 2.

⁴⁰ *The Detroit News*, May 3, 1925, p. 1.

⁴¹ Letter to the author, November 1, 1940.

make the job look simple and easy. The successful session of 1921 indicates that he rapidly "got things going" and if his experience had extended to a fourth term, it would seem doubtful that his earlier successes could have been improved upon.

FRED W. GREEN

When Governor Fred W. Green delivered his first inaugural in January, 1927, he explained: "It is an extremely difficult thing to write a message from the outside looking in. . . . It is not possible for me at this time to give you the State's financial condition." He did feel well enough versed in this matter of finance to charge "that the State is not paying its bills; that Jackson Prison owes the general fund nearly a million and a half dollars; that taxes have been levied and money raised for specific appropriations then spent for other purposes."⁴²

Altogether, Green made eight recommendations relative to the expenditure program. Expenses in Michigan's institutions of higher learning, it was suggested, could be reduced by unifying control of all schools under one board. Nothing came of this suggestion. The proposal to replace the dormitories in the Ionia Reformatory with cell blocks was likewise ignored. No legislation was enacted to strengthen the Mothers' Pension Act as the governor desired. Following his suggestion, the Soldiers' Home at Grand Rapids was given funds for repairs.⁴³ Enlarged appropriations were given to the Michigan College of Mining and Technology, thus enabling it to broaden its curriculum and carry on research in iron and copper mining. The legislature appropriated the \$50,000 per year which the governor specifically requested for research purposes at the college, but when the bill came to him, he reduced it with his item veto by twenty-five thousand dollars.⁴⁴ Green had another victory in securing funds for buildings and equipment at the Howell Sanitorium.⁴⁵

⁴² Fuller, *op. cit.*, p. 860.

⁴³ *P. A.*, 1927, No. 197.

⁴⁴ *Ibid.*, No. 213.

⁴⁵ *Ibid.*, No. 190.

In a special message Green recommended that the wall about the newly constructed prison at Jackson and five cell blocks be completed, and that the old prison not be abandoned. This recommendation, in addition to a deficit already incurred, would have called for an appropriation of \$3,693,164,⁴⁶ and the legislature was obliging to the extent of appropriating nearly \$200,000 more than was asked.⁴⁷

On April 5, 1927, Green asked for a deficiency appropriation: "Our total inherited deficit . . . will amount to \$5,282,162," the governor predicted.⁴⁸ Some discussion of the resulting deficiency bill took place in the Senate about an hour after the measure had passed. Senator Peter B. Lennon, who was absent from the roll call, expressed his belated indignation that the bill had been passed without any questions being asked concerning the numerous items of alleged deficits.⁴⁹ Senator Lennon admonished the upper chamber:

An added tax burden of more than four million dollars should not be placed on the property of this state until we make an investigation to ascertain whether the appropriation items are justified. I cannot imagine a bill of this importance passing the Senate without a single question being raised concerning it. At the time the bill was introduced I asked Senator James C. Quinlan, its introducer, about some of the items enumerated. He was frank in saying he did not know anything about them.⁵⁰

Although the legislature did not accept all of Governor Green's recommendations, the Senate certainly followed him literally without question in this instance.⁵¹

GREEN'S SECOND TERM

In his second term, 1929-30, Governor Green sent two mes-

⁴⁶ Fuller, *op. cit.*, p. 923.

⁴⁷ *P. A.*, 1927, No. 194.

⁴⁸ Fuller, *op. cit.*, pp. 925 ff.

⁴⁹ *Mich. Senate Journ.*, 1927, II: 942, shows the vote on the bill to meet these deficiencies was twenty-six to one; Senator A. E. Wood of Detroit was the lone dissenter.

⁵⁰ *The Detroit News*, May 3, 1927, p. 48.

⁵¹ *P. A.*, 1927, No. 354.

sages to the legislature which together outlined a complete program of recommended expenditures. In the first he explained the budget that had been drawn up after a careful study of the state's resources and requirements. He then promised a single appropriation bill based upon the budget analysis. This appropriation bill did not, however, make provision for the large building program which the governor at the same time proceeded to explain. To remedy the deplorable conditions in eight state institutions, Green asked for funds totaling \$23,710,000. He urged: "The fairest and most equitable method of meeting this special need would be to levy an income tax for a definite period."⁵²

In April the governor sent another message with particular reference to an item in the budget known as "supplementary appropriation." This supplement asked for \$1.5 million, which was to be a cushion to cover the probability of error in estimating expenditures covering such a wide variety of activities as are contained in the budget.⁵³

On May 1, the administration budget bill went to the executive office in a form which was very pleasing to Governor Green. The achievement of passing a single budget bill cannot go unheralded, for this was the only time it occurred in Michigan's twenty years of experience with the budget. The bill, appropriating \$56,212,041, was passed in substantially the same form in which it was introduced. The item which caused the most contention was the "supplementary appropriation," but the only senator who voted against the item was Engle, who said there could be but two reasons for its inclusion: "Either it is to cover a deficiency or it is to create a surplus so the Governor can slash the bill and lay the curse of extravagance on the legislature, and pose before the State as its savior."⁵⁴

There was an incipient rebellion against the leadership of the administration in the House committee of the whole, when

⁵² *Mich. House Journ.*, 1929, I: 27.

⁵³ *Ibid.*, I: 945 ff.

⁵⁴ *The Detroit News*, May 1, 1929, p. 16.

more than \$7 million was slashed from the budget bill by a vote of forty-nine to twenty-two, but only thirty-three of the forty-nine rebels were willing to stand by their guns on the recorded vote on third reading. In the House as in the Senate the most acrimonious debate concerned the \$1.5 million "cushion" appropriation.⁵⁵

The appropriations for certain state building purposes were made, but not as Green requested. As a matter of fact, the legislature appropriated \$4 million more than had been requested, but the executive veto returned the outlays to more nearly what the chief executive originally had specified.⁵⁶ The administration's suggestion that the program be paid for by levying an income tax met defeat in the Senate, and, instead, an addition to the property tax over a period of years was decided upon to pay for the new structures.⁵⁷

BRUCKER AND THE DEPRESSION

The youthful Governor Wilber M. Brucker recognized at the outset in 1931 that, "perhaps the most thought-compelling phase of all our duties is the financial problem of the state."⁵⁸ The period of depression in which he took office accentuated his advocacy of a policy of rigid economy that would get back to first principles in cutting state costs. Brucker reminded the legislature:

The people have spoken in support of a program of economy and I most strongly urge your efforts toward as effective action as is commensurate with the honor and dignity of our state. New offices or positions should be created only where there is no alternative left, and the salaries of existing offices should be equalized and revised downward, with true economy and without impairing efficiency.⁵⁹

In the interest of government economy, the governor urged modernization of the setup in the units of local government and

⁵⁵ *Ibid.*, April 26, 1929, p. 64.

⁵⁶ See p. 52.

⁵⁷ *P. A.*, 1929, No. 324.

⁵⁸ *Mich. House Journ.*, 1931, I: 43.

⁵⁹ *Ibid.*

refinancing of the state's outstanding bond issues to take advantage of much reduced interest rates. Brucker had inherited Green's institutional building program, but he believed economic conditions necessitated modification of the original program which was spread over four years. In a special message the governor developed his reasons for extending the plan over a period of at least an additional two years. In this building program, he declared: "There must come a leveling-off process which *will conform more nearly with our present ability to pay.*"⁶⁰ He recognized that the impelling purpose behind the whole act was to meet the emergency in the mental hospital field. In still another message later in the session, Brucker presented a schedule to the legislature which provided for the postponement of all but the most urgent requirements.⁶¹

Although Governor Brucker recommended strict economy, he made other recommendations for large appropriations. He asked for a subsidy to the poorer school districts. Like most governors, he did not say where the money could be obtained, but he stated: "Some source of revenue other than the general property tax must be devised with which to finance it."⁶²

In the course of the biennium, 1931-33, the governor urged the expenditure of \$4.5 million⁶³ to aid the counties in taking over the maintenance of township roads. He believed, also, that the state should participate in the cost of construction and maintenance of streets in cities which are part of the state's arterial system of highways. Another costly program which he endorsed was old-age pensions. Following the tradition of his predecessors in the same high office, Brucker presented the need for a deficiency appropriation in a special message.⁶⁴

In the first month of the session, the governor's statement of the financial problem brought forth this press comment:

⁶⁰ *Mich. House Journ.*, 1931, I: 66-67.

⁶¹ *Ibid.*, p. 243.

⁶² *Ibid.*, p. 45. Compare this statement with that in Leslie Lipson's, *The American Governor* (Chicago, 1939), p. 54.

⁶³ *Mich. House Journ.*, 1931, I: 41.

⁶⁴ *Ibid.*, pp. 124-25.

It is very evident from the attitude of certain departmental chiefs and influential legislators that the curbing of public expenditure is going to prove a difficult task even for an executive Joshua. It will take a lot of real courage and fortitude to withstand what somebody has called "irrepressible public finance." When it comes down to actually enforcing economy, most of the legislators may mean well, but, . . . to borrow a familiar Rooseveltian phrase, "they mean it feebly." They are like the Scotchman who was open to conviction, but would like to see the man who could convince him. Perhaps Governor Brucker is that man, and if he is, we can tell him that the overburdened taxpayers will hail him as the most convincing of a long line of executives who have sold themselves to the electorate on their personal recommendation as being real Simon-pure, never-say-die economizers.⁶⁵

With this challenge in mind, it is of interest to look at the record.

The modernization of local government was a step urged for relief of the taxpayer. The administration fostered Public Act No. 156 which called for the creation of a commission of inquiry into county, township, and school district government.⁶⁶ Much work was done by the commission, but the legislature did not act upon its recommendations.⁶⁷ The governor went to the support of Representative Culver's "Indiana Plan" bill providing for a review by the State Tax Commission of proposed expenditures of local governments.⁶⁸ The chief executive held that this measure would "attack the problem of local expenditures through the medium of a general tightening of the lines upon certain proved channels of inefficiency and waste."⁶⁹ In disregard of administration endorsement the Senate rejected this proposal.⁷⁰ Although the governor advocated the principle of

⁶⁵ *The Detroit News*, January 15, 1931, p. 4.

⁶⁶ Members of the Commission were: C. L. Ayres, chairman, C. E. Bement, P. C. Gilbert, M. B. McPherson, A. E. Peterman, R. W. Newton, secretary.

⁶⁷ See *Reports of Michigan Commission of Inquiry into County, Township and School District Government* (Detroit, 1932).

⁶⁸ *Mich. House Journ.*, 1931, II: 1230 ff.

⁶⁹ *Ibid.*, p. 1230.

⁷⁰ *Mich. Senate Journ.*, 1931, II: 1148-49.

the old-age pension, the legislature also disregarded this recommendation.

His request for aid to poor school districts was granted except that the legislature did not conform to his suggestion that some special means of financing be provided.⁷¹ The deficiency appropriation bill was approved as a matter of course. The legislature also approved the Dykstra bill,⁷² providing for state participation in the construction and maintenance of trunk-line highways within cities, and the McNitt bill,⁷³ providing for the merging of the township roads with the county highway system over a five-year period.⁷⁴ Too much credit should not be given the governor for these acts since they were favored by almost every organization and individual whose opinion was of any importance.⁷⁵ Brucker's greatest success was the amendment of the building appropriation bill which the legislature made in exact accordance with his proposal.⁷⁶ The governor's endorsement of the Callaghan bills to limit the amount of the state levy on property that would be available for the University and Michigan State College made it possible to record another victory for him, but the form in which the bills passed reduced the state's expenses only \$200,000 a year instead of the proposed \$750,000.⁷⁷

Governor Brucker wanted to cut the cost of state government and lessen the tax load borne by real estate owners. It seemed that he would have gladly accepted an income or sales tax law though he did not ask for either one. He opposed diversion of the gas and weight tax proceeds from highway purposes, and the bill providing for a malt tax was made a law over his veto.⁷⁸ There is some justification for criticism of this aspect of

⁷¹ *The Detroit News*, May 24, 1931, p. 12.

⁷² *P. A.*, 1931, No. 131.

⁷³ *Ibid.*, No. 130.

⁷⁴ A. W. Bromage, "Bringing County and Township Government up to Date in Michigan," *Nat. Municipal Rev.*, XXVIII (1939): 134-42.

⁷⁵ *The Detroit News*, May 24, 1931, p. 12.

⁷⁶ *P. A.*, 1931, No. 56.

⁷⁷ *Ibid.*, Nos. 319 and 320.

⁷⁸ *Mich. House Journ.*, 1931, II: 1286.

Brucker's policy, for he was not straightforward in offering a specific tax program.

When the session closed, it was declared to be one of mixed success and disappointment for Governor Brucker. Veterans said the 1931 legislative session was like most others, neither strictly proadministration nor antiadministration, but both.⁷⁹ To Governor Brucker's economy program the legislature gave no great assistance, with the result that the editors commented:

The Legislature's action in passing the biggest budget in Michigan's history in the midst of the most disastrous economic depression in the lifetime of this nation is thoroughly consistent with the record of the party in power. . . . The present administration has given valiant lip service to economy but practical proposals it has made have been to suggest cutting the funds of the University and the State College to a crippling extent, and reducing revenues of the conservation department to the detriment of highly important state assets.⁸⁰

THE FIRST DEMOCRAT

When Brucker was succeeded by Governor William A. Comstock in 1933, it could honestly be said that economies had been made, and there had been an actual lowering of expenditures. The most serious financial problem that presented itself was the "drying up" of the usual sources of revenue. Overspending will unbalance the budget, and a falling off of income will have the same effect. In 1932 estimated general fund revenues fell short by \$14,786,771, and most of the reduction represented decreased property tax collections. It was to be expected that the Comstock administration would be concerned primarily with the problem of new taxes.⁸¹ Comstock suggested in his first message that a "combination of a sales tax and a gross income tax seems to be the answer to this problem."⁸² At the same time he made the familiar recommendation for rigid economy in the administration of state affairs, but the depres-

⁷⁹ *The Detroit News*, May 24, 1931, p. 12.

⁸⁰ *Ibid.*, May 25, 1931, p. 4.

⁸¹ See Governor Brucker's exaugural message (*Mich. House Journ.*, 1933, I: 50-51).

⁸² *Ibid.*, pp. 56-57.

sion gave the words new meaning. A number of suggested economies made by a special committee of the last legislature were endorsed, but they were recommended only as a starting point for the greater economies of the new administration.⁸³

Despite this manifest desire to cut governmental costs, the chief executive realized that the economic depression had thrust new financial obligations upon the state. In this class he recognized the need for appropriations for welfare relief and old-age pensions. To solve these problems, he proposed that the legislature co-operate with municipal subdivisions and with the Federal Government to the extent of making direct appropriations.

The adoption in November, 1932, of the fifteen-mill constitutional limitation on property taxation had two important repercussions for the state. The governor recognized: "Our primary school system is threatened with disruption. . . . It is probable that State aid will be necessary for those school districts most seriously affected." He recommended: "The participation of the state government in the available tax levies upon property should be curtailed,—as soon as possible it must be discontinued."⁸⁴ In order to relieve the pressure of local government needs upon the limited property tax rate, he suggested the abandonment of the so-called mill tax which supported the University of Michigan and Michigan State College, and in return promised that an administration bill would be presented which would provide for their support from other funds. Thus, more revenue would be made available from the general property tax for the use of local communities.

At the same time he outlined in more detail his tax program. A sales tax bill levying a privilege tax on business had been drawn. The new tax was to be measured by the gross sales of

⁸³ *Report of the Commission of Inquiry into State Governmental Expenses* (Lansing, 1932). Members of the commission were J. C. Armstrong, chairman, Gus T. Hartman, vice-chairman, Norman B. Huston, Peter B. Lennon, James A. Skinner, Art H. Woodruff, John P. Espie, Andrew H. Hamlin, and Vernon J. Brown.

⁸⁴ *Mich. House Journ.*, 1933, I: 195-96.

retailers and the gross receipts of manufacturing, mining, public utility, and personal service businesses and professions of the state. At the proposed rates the new taxes were estimated to yield about \$35 million.

No doubt a governor who has been drawn from the legislative ranks or who has had years of experience in state government knows best how to secure the maximum legislative support. Governor Comstock's lack of experience was apparent in his messages. Although he did not beg or cajole, but demanded and admonished, yet the persistence with which he used the message to badger the legislature produced results. Donald McGowan, when he retired as a Lansing correspondent, sized up Michigan governors he had known. Of Comstock, he wrote: "As a politician Comstock ranked well toward the foot of the class." After giving illustrations of "his supreme ineptitude in the matter of cultivating good will . . .," McGowan added: "In personal charm, Comstock was one of the leaders of America." The same correspondent pointed out, too, that it is necessary to go back a long way in Michigan history to find an administration with greater accomplishments to its credit.⁸⁵

The governor told the House it could "redeem itself" if it belatedly passed the Kulp bill which would make \$12 million available for unemployment relief in co-operation with the Federal Government.⁸⁶ Comstock's demand "that you pass this bill" was met.⁸⁷ Old-age pensions were provided by Act No. 237. Two small appropriations for the Century of Progress Commission⁸⁸ and the Great Lakes Tidewater Commission⁸⁹ were passed in accordance with his request. For state aid to schools, \$18 million was appropriated. Of this sum the sales

⁸⁵ *The Detroit News*, March 21, 1937, p. 10. Upon McGowan's retirement as a correspondent, his successor wrote: "When he wrote his signature to nine years of reporting the business of Michigan last Sunday, the state lost a political analyst of unusual perception and the newspaper profession lost a man who always wrote with rare and simple logic . . ."

⁸⁶ *Mich. House Journ.*, 1933, II: 1242.

⁸⁷ *P. A.*, 1933, No. 201.

⁸⁸ *Ibid.*, No. 48.

⁸⁹ *Ibid.*, No. 264.

tax fund was to furnish all but \$3 million,⁹⁰ which the chain store tax was expected to produce.⁹¹

The close relationship of the expenditure program to the tax program at this time is evident in Comstock's special message urging the adoption of his general sales tax bill instead of the Senate's substitute bill providing for a tax only on retail sales, which the governor maintained would be at least \$17 million short of required income. He warned that schools would close and unfortunates would go hungry and unclothed because taxes on manufacturers, the extractive industries, and personal services were deleted from the scope of the original bill.⁹² The quarrel continued until the legislature's conference committee on the sales tax bill met in Ann Arbor with Comstock and the University experts who had participated in the preparation of the administration measure.⁹³ In the end the sales tax bill given to the governor was *not* the one he fostered, but he signed it. The resultant law, according to the press, "bears the finger prints of the master lobbyist in every line," meaning the lobbyist for the Michigan Manufacturers Association.⁹⁴ The chain store tax⁹⁵ and a new malt tax⁹⁶ were also enacted by the legislature. Comstock's greatest effort was expended upon the new tax program, and the routine appropriations he left in the guiding hands of Representative Clyde Stout. These were smaller, considered as a whole, than they had been in the previous bien-nium, but the savings fell far short of the 33 per cent which was the goal of Governor Comstock.⁹⁷

FRANK D. FITZGERALD

After twenty-two years in state politics, Frank D. Fitzgerald became governor in 1935. It was to be expected that out

⁹⁰ *Ibid.*, No. 236. That figure was dependent upon the maximum estimated revenues from the sales tax.

⁹¹ *Ibid.*, No. 265.

⁹² *Mich. House Journ.*, 1933, II: 1151.

⁹³ Professors Thomas H. Reed, E. Blythe Stason, and H. L. Caverly.

⁹⁴ *The Detroit News*, June 11, 1933, p. 4. See also p. 148.

⁹⁵ *P. A.*, 1933, No. 256.

⁹⁶ *Ibid.*, No. 157.

⁹⁷ *The Detroit News*, June 16, 1933, pp. 1 and 2.

of this rich experience he would have numerous proposals to make. A balanced budget, elimination of nonessentials in government, and administrative reorganization were the broad tenets to which he adhered. He also asked specifically for \$34 million for state aid to the public schools, increased old-age benefits, and unemployment insurance. To cut state expenditures, he recommended that two state normal colleges be closed and that state aid be withdrawn from county normal schools. To eliminate unnecessary expense, Fitzgerald further suggested that the State Health Department consolidate its laboratories with those of the University of Michigan and that the State Library and Historical Collection be likewise turned over to the University.⁹⁸

Fitzgerald was characterized as a man who knew the mechanics of Michigan government as few other men have. It is interesting to trace his accomplishments with "a common sense approach" to state problems.⁹⁹ Reorganization plans received short shrift from the legislature, and, therefore, the counterpart of that movement, efficiency and economy, was not to be enjoyed. *The Detroit News* commented: "Defeat of this program relieves the Governor of making good his promise to cut State expenses drastically, for the defeated bills were to be his scissors."¹⁰⁰ It was fortunate for Fitzgerald that he was given this excuse to fall back upon, for the budget was neither reduced nor balanced. All four teacher-training institutions were given appropriations as usual, and county normals were given \$65,000.

On the other hand, the lawmakers followed Governor Fitzgerald's requests in two instances. The legislature appropriated \$2 million more than he had requested for public schools.¹⁰¹ More than \$36 million were made available in each fiscal year. In accordance with his recommendation, \$2 million were also appropriated for old-age pensions.¹⁰²

⁹⁸ *Mich. House Journ.*, 1935, I: 33-45.

⁹⁹ *The Detroit News*, March 21, 1937, p. 10.

¹⁰⁰ *Ibid.*, May 5, 1935, p. 1.

¹⁰¹ *P. A.*, 1935, No. 192.

¹⁰² *Ibid.*

Fitzgerald was not content merely to suggest expenditures; he was determined that there should be a balanced budget, and to that end he addressed the legislature in several messages. On May 15, 1935, he warned: "This legislature is considering appropriations which total about \$5,000,000 more than the state will be able to pay for the operation of its government during each of the next two years." With the message he presented a detailed estimate of appropriations and revenues that were under consideration by the legislature and urged the reduction of these expenditures to meet anticipated revenues.¹⁰³ This hoped-for decrease was never made, and appropriations were actually increased about \$3 million for each year. Of the seventeen appropriations listed in the message, two failed to pass, one was decreased, and two were substantially increased. The biggest increase was made in the appropriations for departments, boards, and commissions;¹⁰⁴ the outlay for special state purposes and debt charges was raised \$826,400.¹⁰⁵

Fitzgerald in this special message reminded the legislature: "I will not countenance any new form of taxation. . . .," and he proposed to take the sales tax off food and eliminate the state property tax.¹⁰⁶ The sales tax on food remains to this day, but the state did withdraw entirely from the general property tax field in 1935.¹⁰⁷ One must agree with the editorial comment: "This legislature has disappointed Governor Fitzgerald by being independent, paying scant attention to his wishes."¹⁰⁸

THE LITTLE NEW DEAL

Frank Murphy, who succeeded Fitzgerald in 1937, had a better understanding of social problems than did his predecessor. He reasoned that appropriations for the old, sick, and needy were socially and economically sound. An increase in

¹⁰³ *Mich. House Journ.*, 1933, II: 1375-76.

¹⁰⁴ *P. A.*, 1935, No. 257.

¹⁰⁵ *Ibid.*, No. 256.

¹⁰⁶ *Mich. House Journ.*, 1935, I: 35.

¹⁰⁷ *Ibid.*, p. 36.

¹⁰⁸ *The Detroit News*, May 10, 1935, p. 24.

such expenditures would reduce the sum of private and local expenditure for the same purposes.¹⁰⁹ Murphy's first recommendation was for increased assistance for needy old people. He then requested \$8 million for a deficiency appropriation to cover amounts previously released for emergency welfare relief, old-age assistance, and shortages in departmental funds. At the same time he declared that an additional appropriation of \$6.4 million for state relief would be required for the remainder of the fiscal year.¹¹⁰

In a special message, Governor Murphy drew the attention of the legislature to the need of enlarging facilities for the care of the insane and mentally defective. In order to meet these requirements he suggested that the lawmakers develop a conservative building program over a period of several years which would involve about \$4 million each year of the next biennium.¹¹¹

Murphy struck a familiar and traditional note when he continued: "Regardless of rising revenues, which are due to improved conditions and their effect on sales tax revenues, we should endeavor to conserve these revenues." Realizing that his financial recommendations were completely unprotected from legislative alterations, he urged the safeguard of a single appropriation bill to make it possible to weigh the relative importance of appropriations and more easily keep them within total revenues. "Separate appropriation bills may result in overgenerosity to those first served. . . ." ¹¹² From this review, it is fair to say that Murphy's requests reflected his renowned liberalism and were intended to extend the social program that had already been started.

Governor Murphy was not at the capital much during the session, and he was often criticized for this. Although he exhibited courage and determination in the period of industrial unrest, lack of appreciation for his efforts was shown when a resolution was introduced in the House requesting that the

¹⁰⁹ *Mich. House Journ.*, 1937, II: 2267.

¹¹⁰ *Ibid.*, I: 33 ff.

¹¹¹ *Ibid.*, pp. 936 ff.

¹¹² *Ibid.*, p. 46.

members of the legislature stage a sit-down session until the governor returned to the capital and gave his co-operation for the balance of the session.¹¹³ In view of this situation, it is questionable how much praise or blame should be showered on Murphy for the appropriations actually passed.

Through its excessive generosity, the 1937 lawmakers were dubbed the "pennies from heaven legislature," and the requests made by the governor were by no means the only ones to receive attention. Public Acts 3 and 6 answered his requests for supplemental appropriations: the first provided \$8,950,810, of which amount \$6 million were for emergency welfare relief and \$2 million for old-age assistance;¹¹⁴ the second act provided additional money for certain departments, boards, and commissions to the extent of \$3,537,872, and more than one-third of that sum went for medical treatment of children and mental patients at Eloise Hospital.¹¹⁵ It was necessary to appropriate another \$914,000 to enable the State Emergency Welfare Relief Commission to finish the fiscal year 1937.¹¹⁶

The building appropriation requested by the governor was provided. Ten institutions for mental patients were to receive \$3,410,935 for the fiscal year 1938 and \$3,021,500 in 1939.¹¹⁷ The legislature also followed to the dollar Murphy's request for \$8 million more than had been appropriated for old-age assistance during the previous biennium.¹¹⁸

On the other hand, his request for a single appropriation bill was ignored, and twenty-one acts were passed. The result of this procedure was as he had predicted it would be—overgenerosity. His logical suggestion "that the legislature consider that portion of the budget pertaining to revenues as carefully as the other portion pertaining to expenditures" went unheeded. The upset was disastrous. Appropriations exceeded probable revenues by many millions of dollars.¹¹⁹

¹¹³ *The Detroit News*, March 9, 1937, p. 6.

¹¹⁴ *P. A.*, 1937, No. 3.

¹¹⁵ *Ibid.*, No. 6.

¹¹⁶ *Ibid.*, No. 60.

¹¹⁷ *Ibid.*, No. 253.

¹¹⁸ *Ibid.*, No. 261.

¹¹⁹ See p. 70.

FITZGERALD AND DICKINSON

When Murphy was succeeded by the veteran Fitzgerald in 1939, the general fund deficit amounted to \$10,212,670, and the budget director predicted it would be nearly \$25 million by the end of the fiscal year.¹²⁰ Under these circumstances, Fitzgerald cautioned the legislature to weigh carefully all financial commitments for the next biennium and provide a balanced budget.¹²¹

The legislature, however, was placed in a dilemma by certain other recommendations which the governor made. He suggested that state aid for schools be increased to \$45 million a year, and he recommended an advertising appropriation of \$25,000 a year for agricultural products. Definite appropriations for the improvement and expansion of the state park system were also endorsed. Although he suggested that a special highway office building might be built, he was not in favor of further appropriations from the general fund for highway purposes. Recommendations for strict economy are hardly consistent with projects which, if carried out, would involve the expenditure of millions of dollars. If the governor recommends, he can be expected to point the way, but death removed this responsibility from Frank D. Fitzgerald. The eighty-year-old lieutenant governor, Luren D. Dickinson, succeeded him.

Five months later the legislature was still struggling to reconcile a balanced budget with the requested \$45 million school aid. When that body ceased working on May 26, there was little prospect for the balanced budget which the Republicans had promised. Another Fitzgerald pledge that no new taxes would be levied was involved; otherwise, they might have offered an obvious solution. The Democratic floor leader explained that the Republicans were caught between two Fitzgerald promises. He remarked: "I think future politicians will

¹²⁰ This anticipated deficit included certain necessary expenditures, mainly for relief and hospitalization, for which Fitzgerald requested supplementary appropriations amounting to roughly \$7.5 million. *Mich. House Journ.*, 1939, I: 334.

¹²¹ *Ibid.*, pp. 333-34.

be more careful about their promises.”¹²² It may seem strange that the Republicans should have tried to solve this puzzle which Fitzgerald had left in their lap. The township supervisor group, which controlled the House, wanted the money for the local schools, while the president of the Senate, who was also majority leader in the Senate, was faithful to the late governor—thus the deadlock, with both sides pointing to Fitzgerald’s message to substantiate their position.

Up to this time Governor Dickinson had refused “to be put in the position, at any time, of telling the legislature what to do.”¹²³ When he did enter the struggle, he threw his weight on the side of a balanced budget, and the school appropriation was cut to \$39 million.¹²⁴ Too much credit does not go to the governor, however, for in such disputes experience has shown that the Senate usually emerges victorious over the House as it did in this instance.¹²⁵

CONCLUSION

In the last twenty years, the governors have not been willing to wait for the lawmakers to assert themselves on matters of finance. While the executives have continued to use the message to admonish the legislature to economy, their concrete requests for expenditures indicate great interest in appropriations and determination to direct the legislature in this most vital aspect of its work. The remarkable number of gubernatorial proposals that have found their way into law discloses that the executives have had a great influence on the expenditure programs. The words of messages do not tell the whole story, for often the more vociferous governors who resorted to frequent messages had many rebuffs. The methods by which the governors were able to enforce their leadership and give weight to their utterances await further explanation.

¹²² *The Detroit News*, May 27, 1939, p. 1.

¹²³ *Ibid.*, May 7, 1939, p. 5.

¹²⁴ *Ibid.*, July 1, 1939, p. 3.

¹²⁵ Interviews with legislators and close observers of the Michigan legislature.

II

THE SPECIAL SESSION AND APPROPRIATION

THE GOVERNOR'S constitutional power to "convene the legislature on extraordinary occasions"¹ has proved an effective means of exerting influence on the legislature to make needed appropriations. This power is enjoyed by governors in all states and was widely used during the economic depression. General unemployment, the relief situation, and the breakdown of the traditional tax structure all contributed to extraordinary circumstances leading to the call for special sessions. Virtually all of the states were faced with the problem of obtaining sufficient funds for the operation of government. Thus, the special sessions of the past decade have offered the governors of Michigan, as well as those of other states, a special opportunity to voice their opinions in the financial sphere.

A second constitutional provision incorporated for the first time in Michigan in the constitution of 1908 further strengthens the executive's power over special sessions in contrast to regular sessions. Article V, section 22, provides: "No bill shall be passed at a special session of the legislature on any other subjects than those expressly stated in the governor's proclamation or submitted by special message." According to the framers of the constitution: "This wisely limits the sphere of action of the legislature, in special session, and the governor's proclamation is notice to the public of the work which the legislature can lawfully undertake."² This limitation gives to the message more inherent force than it possesses at the regular session. The governor is able to keep matters entirely in his control through careful selection of what he recommends. He may not be able

¹ *Mich. Constitution*, 1908, Art. VI, sec. 7.

² *Proceedings and Debates of the Constitutional Convention of the State of Michigan* (Lansing, 1907), II: 1422. In *Smith v. Curran*, 268 Mich. 366 (1934), the court held the guiding principle in sustaining legislation of a special session is that it be germane to, or within, the scope of the subjects which have been designated by the governor as proper fields for legislation.

to ensure that everything he advocates is passed, but he can be certain, by omitting proposals from his call, that measures he dislikes will not be forthcoming. In his message on unemployment insurance, Fitzgerald, for instance, made use of this power in a positive manner by warning: "This is the sole reason for calling this extraordinary session."³ Groesbeck sought to curb legislation on the registration of automobiles by reminding the legislature that "neither of the messages heretofore submitted cover this subject."⁴

One writer stated: "He [the governor] has complete control over the number and character of the subjects to be considered in such sessions, by virtue of his authority to include or omit them from the call. . . ."⁵ Although some of Michigan's governors have availed themselves of this rigid construction of the power, it has in several cases been modified. The modification is in the hands of the governor and is a powerful bargaining weapon. Many conferences between legislative leaders and the governor may precede the call for a special session. If the call lists numerous subjects, it is likely that the governor promised to include some items at the request of legislators only after receiving pledges of their support for his measures. The excellent relationship existing between Groesbeck and his last legislature made possible the submission of one item on the basis of a "request made by a number of members."⁶ Sometimes the bargaining takes place after the session has convened and a subsequent message presents the results. During the first special session called by Groesbeck, he devoted a special message to submitting two new subjects for action on the basis of resolutions by the Senate and House requesting his authorization of their consideration.⁷ During the decade of the depres-

³ *Mich. Senate Journ.*, Extra Session, 1936, p. 6.

⁴ G. N. Fuller, ed., *Messages of the Governors* (Lansing: Mich. Hist. Comm., 1927), IV: 847.

⁵ W. B. Graves, *American State Government* (Boston: D. C. Heath and Co., 1936), p. 205. For legal refinement of this statement, see a note by James W. Coultrap, "Legislative Action at Special Sessions Limited by Governor's Message," *Mich. Law Rev.*, XXXIII (1934-35): 816-18.

⁶ Fuller, *op. cit.*, p. 843.

⁷ *Ibid.*, p. 796.

sion there were so many pressing problems that the governors usually sought to focus attention upon matters of immediate urgency. In his message to the special session in the summer of 1938, Murphy urged action on an additional relief appropriation, a real estate moratorium, and housing. In order to concentrate attention on these demands, he stated: "I have received many communications urging consideration of other matters. One or two additional subjects may be presented to you by special message, but others will have to be deferred until the general session."⁸

Michigan's governors have called thirteen special sessions within the last twenty years. Groesbeck summoned the legislature three times during his first term. In the trying years of Comstock's administration in the depth of the depression, the legislature also convened on three different occasions at his call. Michigan's extra sessions distribute themselves as follows over the past score of years:

TABLE I
SPECIAL SESSIONS

Governor	Term	Extra Sessions
Groesbeck.....	1921-23	May 24, 1921—June 20, 1921
Groesbeck.....		June 30, 1921—July 19, 1921
Groesbeck.....		October 10, 1922—October 20, 1922
Groesbeck.....	1923-25	December 4, 1923—December 19, 1923
Groesbeck.....	1925-27	February 16, 1926—March 15, 1926
Green.....	1927-29	
Green.....	1929-31	
Brucker.....	1931-33	March 29, 1932—May 21, 1932
Brucker.....		December 27, 1932—December 31, 1932
Comstock.....	1933-35	November 22, 1933—January 4, 1934
Comstock.....		February 19, 1934—April 4, 1934
Comstock.....		December 10, 1934—December 31, 1934
Fitzgerald.....	1935-37	December 21, 1936—December 29, 1936
Murphy.....	1937-39	July 30, 1937—August 11, 1937
Murphy.....		August 29, 1938—September 16, 1938
(Fitzgerald)		
Dickinson.....	1939-41	

⁸ *Mich. Senate Journ.*, Extra Session, 1938, p. 11.

THE TWENTIES

At the opening of the first special session of his term, Groesbeck stated: "The Legislature at the session beginning May 24, 1921, is requested to pass legislation making effective the Soldiers' Bonus Amendment to the Constitution, for which purpose this special session was primarily called."⁹ On June 2, the House of Representatives passed the bill but amended it so that the bonds matured serially. This was unsatisfactory to Groesbeck and contrary to the recommendations of the State Administrative Board. The governor immediately sent a second message repeating his reasons for favoring term bonds with a thirty-year maturity. He concluded: "It is imperative that the bonus money be available July 1st and anything which jeopardizes this should be avoided."¹⁰ A comparison of his recommendation with the Soldiers' Bonus Act¹¹ shows that he won his point; the primary purpose for this session was fully accomplished.

In his first message, Groesbeck also listed fifteen purposes for which additional appropriations might be made. In no case did he request any specific amounts, but simply suggested "such additional appropriations for departments, institutions, and State agencies as the Legislature may believe to be necessary."¹² The legislature met this last suggestion by granting \$125,000 to the State Administrative Board to dispense at its discretion to the various state departments, boards, and commissions which requested an allocation from it.¹³ Of the other possibilities, the legislature saw fit to make appropriations in only eight instances, and in one of those the sum was merely \$1,000. The failure of the legislature to appropriate for every purpose cannot be considered, under the circumstances, as a rebuke to the governor.

Groesbeck's second extra session was convened ten days after

⁹ Fuller, *op. cit.*, p. 793.

¹⁰ *Ibid.*, p. 796.

¹¹ *P. A.*, Extra Session, 1921, No. 1.

¹² Fuller, *op. cit.*, p. 795.

¹³ *P. A.*, Extra Session, 1921, No. 13.

the adjournment of the first meeting on June 20, 1921. The State Administrative Board had experienced unforeseen difficulties in disposing of the \$30 million bond issue authorized for payment of the soldiers' bonus under Public Act No. 1 of that session. Four amendments were requested, three to make the bonds more marketable and one to authorize the State Administrative Board to negotiate a temporary loan to pay such claims as were made before the actual bond issue could be floated. These requests were fully acceded to in the first act of that session.¹⁴ The only appropriation that Groesbeck suggested was an additional sum of \$12,000 to defray expenses of the legislature, and this was promptly enacted.¹⁵

The special sessions of October, 1922, and December, 1923, were called as a result of extraordinary circumstances which had nothing to do with appropriations, and they will therefore not be considered.

The session called in February, 1926, during Groesbeck's third term, was of greater importance from the standpoint of money appropriated than any of the four he had previously convened. The main object to which he first drew the lawmakers' attention was the negotiating of a new contract with the Grand Trunk Railway whereby it would surrender the special charter of its predecessor, the Detroit, Grand Haven and Milwaukee Railway Company, under which it paid an annual sum of \$25,171 into the Primary School Fund. Groesbeck explained:

In effect the company proposes . . . to remove its tracks from Woodward Avenue and to pay, in addition to the specific tax it is now paying, the full cost thereof at the rate of \$200,000 per year if the state will finance the undertaking. The only obligation that the state will assume will be the providing of a fund from which the expense of acquiring a new right of way and rebuilding thereon will be paid. After the cost of moving the tracks to the new location has been defrayed by the yearly payments of \$200,000, the company will then come under the general law pertaining to the taxation of railroads and

¹⁴ *Ibid.*, 2nd Extra Session, 1921, No. 1.

¹⁵ *Ibid.*, No. 2.

will be paying into the Primary School Fund between three and four hundred thousand dollars a year instead of \$25,000 . . . it pays at present.¹⁶

The legislature apparently saw no disadvantages in this plan, for their first act incorporated all of its features.¹⁷ The act further provided that the State Administrative Board be empowered to borrow funds from the sinking fund for state highway bonds to be placed in a revolving fund which could be drawn upon for the widening and improving of Woodward Avenue in Detroit.¹⁸

The second item of importance, which Groesbeck proposed to the session of 1926, concerned greater funds for maintenance of his favorite project, highways. To this end he stated:

The State now has nearly 7,000 miles of roads to maintain and the inadequacy of the appropriation for that purpose is apparent to anyone having the slightest knowledge of the facts. A very careful survey by the Highway Department of this year's maintenance requirements . . . indicates that to properly maintain [sic] them will entail an expenditure of at least four million dollars.¹⁹

This request was not granted. Through reduction of state awards to counties, however, \$500,000 was made available from gasoline tax funds.²⁰ The Senate was responsible for defeating the \$4 million appropriation provided in the motor vehicle tax act.²¹ Thus, the diversion of a part of the motor vehicle tax proceeds was barred.

Just two days previous to this action, Groesbeck had addressed the 1926 legislature with praise: "I wish to express my appreciation to the members of the Legislature for their consideration of the subjects submitted at the opening of the special session and for the action thus far taken thereon."²² With

¹⁶ Fuller, *op. cit.*, p. 840.

¹⁷ *P. A.*, Extra Session, 1926, No. 1.

¹⁸ *Ibid.*, sec. 7.

¹⁹ Fuller, *op. cit.*, p. 841.

²⁰ *P. A.*, Extra Session, 1926, No. 7.

²¹ *Mich. Senate Journ.*, Extra Session, 1926, p. 88.

²² Fuller, *op. cit.*, p. 843.

the exception of its stand on the highway maintenance grant, the legislature proved itself worthy of this comment, particularly in regard to appropriations. They passed \$750,000 for a combination library and administration building at Mount Pleasant Normal School,²³ \$500,000 in additional funds for Michigan State Prison,²⁴ and \$200,000 for completion of Michigan State Training School for Women at Okemos.²⁵

The power which enables the governor to confine legislative action to the subjects in his messages was wisely employed by this executive and enabled him to direct policy with an even greater degree of exactitude than he had found possible in his unusually successful regular sessions.

DEPRESSION RETRENCHMENT

The rigors of the depression brought about the extraordinary circumstances requiring the 1932 special session in which a state budget underwent the most drastic changes to which it has ever been subjected. To meet the difficulties of this financial cataclysm, Brucker found the power to call a special session as his saving recourse. He illustrated its necessity by explaining:

There must be a drastic curtailment of expenditures for our state government for the fiscal year beginning July 1, 1932. It is impossible, however, for either the Governor or State Administrative Board to bring about the amount of retrenchment which I desire under existing laws.²⁶

Here we see the power of the special session being brought into play to mitigate the weaknesses of the biennial budget plan necessitated by the constitutional provision for biennial legislative sessions. As a result, the budget is planned too far in advance of the time when its provisions will be executed. It is particularly difficult, if not impossible, to foresee conditions in the second year of the biennium and to make allowances for them in the budget and the legislative appropriations.

²³ *P. A.*, Extra Session, 1926, No. 8.

²⁴ *Ibid.*, No. 4.

²⁵ *Ibid.*, No. 21.

²⁶ *Mich. Senate Journ.*, Extra Session, 1932, p. 12.

Brucker was not prepared to countenance half-way measures. He stated his goal plainly:

. . . it is time the taxpayer had his inning in this reduction process. The State must accept leadership in this program of reduction, and it can come about in no other way than for the State Government costs to be . . . severely reduced. I am fully persuaded that the enactment of legislation along the lines I will propose will accomplish a saving of four million dollars from that which is now appropriated by you.²⁷

This amount could be saved through a general 15 per cent reduction in every phase of state expense. Brucker grouped the reductions as follows:

First: To reduce the total of all personal service expense fifteen per cent below the total fixed in the Budget Act of 1931 for the fiscal year beginning July 1, 1932. This should be accomplished by the reduction of personnel and through a greater proportional reduction in the higher brackets than in the lower brackets.

Second: To make fifteen per cent reductions in any other salaries which may be payable out of any other state funds of any character, whatever, during the fiscal year beginning July 1, 1932, whenever such salaries are subject to legislative control.

Third: To reduce the totals of all supplies, materials and contractual service expenses as provided in the Budget Act of 1931 and of the Mill Tax acts of 1931 for the University of Michigan and Michigan State College, fifteen per cent below the total fixed by that act for the fiscal year beginning July 1, 1932.

Fourth: To cancel all of the appropriations listed under the headings "Capital Outlay" and to reduce all of the appropriations listed under the heading "Special State Purposes" fifteen per cent and to reduce any other appropriation in any other subdivision in the Budget Act of 1931, or any other act making appropriation for any purpose, fifteen per cent.²⁸

Brucker anticipated that some of his suggestions dealing with reductions might prove stumbling blocks to the rapid accom-

²⁷ *Ibid.*

²⁸ *Ibid.*

plishment of his major aim. He consequently warned the lawmakers in the following manner:

It has been made clear . . . that the people of this state greatly prefer a short session and most of you have personally expressed the same desire. Obviously this popular demand could not be met if the tedious and time-consuming task of re-examining all the intricacies of the State budget were thrust upon your shoulders. However, the recommendations which I shall make will, if given your approval, accomplish in full the desired reductions of expenditure in a much shorter period of time than would otherwise be possible.²⁹

The legislators welcomed the general proposition of economy and tax reduction, but they had their own views as to how to accomplish the change. The first and second proposals to cut salaries of practically all state employees as a part of the re-trenchment program threatened to throw the legislature into a turmoil.³⁰ Many members of the House and Senate took a deep personal interest in just where the pay reductions would strike. To know precisely what salaries were to be affected, it was suggested by one member that the legislature be furnished with a complete itemized report of state personnel and salaries. The chairman of the Senate finance committee maintained that the economies should be effected by the elimination of useless jobs rather than cutting the salaries of needed employees. He was of the opinion that a careful check of the personnel of state departments and institutions would be the proper approach.³¹ Brucker objected to this, referring to his original admonition that if the legislature went at the problem in this way, it would be in session three months.

The meat of the argument was that the legislature did not want to leave it to department and institution heads to make a general 15 per cent reduction in salaries. They believed the legislature should specify what salaries should be cut and how much. They insisted that there were many salaries so low that to cut them would work an undue hardship. They wanted to

²⁹ *Ibid.*

³⁰ *The Detroit News*, April 2, 1932, p. 14.

³¹ *Ibid.*, April 7, 1932, p. 16.

see the higher salaries reduced and the lower ones remain the same. Brucker believed he had provided for this factor in his request for a personnel commission to study state payrolls and to classify jobs and equalize salaries—a request which had been part and parcel of his original budget reduction schedule.³² This request was finally granted in an act which included an appropriation of \$10,000 for the expenses of the commission.³³

The issue of state salaries finally resolved itself by a compromise. The legislators had to forego the extensive investigation into personnel and salaries of all departments, but they made their wishes felt in the manner of a graduated salary schedule, thus removing the matter from the discretion of the department heads. Salaries not exceeding \$1,200 a year were not to be cut; over that they were slashed, in the lower brackets beginning at 10 per cent and rising in the higher brackets to 25 per cent.³⁴

Previously, Brucker voluntarily had cut his own salary by 15 per cent. This reduction was considered to be an invitation to others having salaries beyond the immediate power of the legislature to do likewise—circuit judges, justices of the Supreme Court, constitutional officers, highway commissioner, state banking commissioner, and members of the Public Utility Commission.³⁵

In accomplishing his third objective, which proposed “to reduce the totals of all supplies, materials, and contractual service expenses as provided in the Budget Act of 1931,” Brucker encountered a similar desire on the legislature’s part to “go over all State expenditures and call in heads of institutions for questioning in every instance where it was believed economies might be made.”³⁶ The leaders in this movement were Senators Albert J. Engel of Lake City and Arthur E. Wood of Detroit. An example of the detail in which they were interested is revealed by their statement that they “don’t know why the food

³² *Mich. Senate Journ.*, Extra Session, 1932, p. 12.

³³ *P. A.*, Extra Session, 1932, No. 33.

³⁴ *Ibid.*, No. 42.

³⁵ *The Detroit News*, March 31, 1932, p. 1.

³⁶ *Ibid.*, April 7, 1932, p. 16.

at Ionia should be so much less expensive than at Marquette or Jackson. They don't know why the operating cost at Jackson should have gone up while the trend in Marquette and Ionia was in the other direction."³⁷ They wanted to go into these matters and scores of others and to amend the state budget bill in accordance with their findings. However, most of the other members of the Senate's finance and appropriations committee wanted to report the bill to the Senate substantially in the House-approved form, which meant with virtually all of the appropriations cut 15 per cent. There were only six items under special state purposes which Representative Hartman, chairman of the ways and means committee, had left intact with no reductions.³⁸

Although the bill was reported in this form on the floor of the Senate, administration leaders there had to give ground before a group of insurgents, and consent to the elimination of an additional \$700,000 from the general budget. The chief victim was the Department of Public Safety which lost \$557,435 through a compromise agreement that its entire operating revenues should be derived from automobile operators' license fees. From the appropriation for Michigan State Prison at Jackson, an additional \$172,680 was pruned, and from that of Marquette Branch Prison, an extra \$23,965. The bill, as finally passed, represented a reduction of \$785,090 below the appropriation made in the regular session, but this was changed subsequently to \$700,000 by increases in the appropriations for state parks and the forest fire divisions of the Department of Conservation.³⁹

The bills incorporating the governor's request for a reduction of 15 per cent in the total of the Mill Tax Acts of 1931 for the University of Michigan and Michigan State College

³⁷ *Ibid.*, May 1, 1932, p. 14.

³⁸ These were: County normal training classes, \$153,000; day schools for deaf and blind, \$180,000; rural agricultural schools, \$227,500; taxes on state lands, \$100,000; primary school aid, \$70,000; and payment to the counties on state lands, \$15,000. *Ibid.*, April 12, 1932, p. 1.

³⁹ *Ibid.*, May 6, 1932, p. 10.

were passed with almost complete unanimity,⁴⁰ although there had been talk of further reducing the appropriation for the University of Michigan.

When the members came to the problem of "reducing any other appropriation in any other act making appropriations for any purpose, fifteen percent," the legislators were ready to cut expenses where the governor left off. The appropriation for advertising the state to attract tourists was cut 50 per cent to the figure of \$50,000.⁴¹ The bill for the eradication of tuberculosis in livestock was passed with a 33 per cent reduction in the amount provided.⁴² The House cut \$184,500 from the figure suggested by Governor Brucker for the institutional building program. The Senate proceeded to cut an additional \$350,000 by providing that unencumbered balances for this year's appropriations shall be a part of next year's appropriations. This made a total reduction in the bill of 35 per cent. In view of this thriftiness, it is surprising that the legislature refused to conform with the governor's suggestion that all appropriations listed under capital outlay be canceled. Instead, they cut those appropriations by the customary 15 per cent.

Although the action of the lawmakers varied in detail from that suggested by the executive, Brucker was well pleased with the outcome of the session. He commented: "The bills at the special session have paved the way for definite tax relief running into tens of millions of dollars. . . . In many ways the special session was the most important of all those in the history of the state."⁴³ He pointed out that the session was unusual in that no new taxes were adopted, and that instead, relief was given to delinquent taxpayers, to depositors in closed banks, and to the unfortunate person saddled with special assessment charges for Covert roads and general highway taxes. This last relief was accomplished by the Horton Act (Public Act, No. 41) which diverted the entire receipts of the automobile weight tax to the counties.

⁴⁰ *Ibid.*, April 6, 1932, p. 4.

⁴¹ *P. A.*, Extra Session, 1932, No. 5.

⁴² *Ibid.*, No. 4.

⁴³ *The Detroit News*, May 11, 1932, p. 4.

COMSTOCK'S SPECIAL SESSIONS

Comstock, Brucker's successor, found that the regular session of 1933 had by no means solved all the problems that had developed. He therefore convened the legislators again on November 22, 1933, "to consider several matters of immediate and emergency import to the welfare of the people of this State."⁴⁴ Among the major problems requiring action were liquor control, school finances, the bank difficulties, and development of public works projects. In addition, a number of small appropriations had been requested to make up for previous omissions. In speaking of these, Comstock made the following statement:

In your general session the Public Trust Commission, the Chiropractic Board and the Plumbing Board were provided for by statute, but no appropriations were made for them. It was apparently the legislative intent that they should function forthwith and with that in mind the State Administrative Board provided loans from the General Fund to permit them to function. You should in this session, therefore, provide these necessary appropriations.⁴⁵

A similar request was made for funds for the state bond holders committee. An appropriation of \$500 per year was asked for the Michigan Weather Service by the United States Weather Bureau. All of these requests were granted through Public Act No. 9, which made appropriations of \$55,243 for the year ending June 30, 1934, and \$72,683 for the year ending June 30, 1935. Comstock likewise was granted his request for a state commission to facilitate the liquidation of farm mortgages through loans from the Federal Government under the Emergency Farm Mortgage Act of 1933. This act carried an appropriation of \$20,000.⁴⁶

The only exception to his complete success with requests for small appropriations arose when Governor Comstock asked the legislature for an appropriation of \$15,000 for the celebration of the tricentennial of the landing of Jean Nicolet on

⁴⁴ *Mich. Senate Journ.*, Extra Session, 1933, p. 3.

⁴⁵ *Ibid.*, p. 6.

⁴⁶ *P. A.*, Extra Session, 1933, No. 13.

Mackinac Island. The House reduced the amount to \$5,000, but the Senate refused to co-operate even to that extent.⁴⁷

In speaking of the necessity for a new state liquor control act, following the adoption of the Twentieth Amendment to the United States Constitution, Comstock urged: "All net revenue derived from this Bill should be appropriated, for at least a year, to supplement the appropriation for public schools."⁴⁸ With the exception of \$2,000 to the legislative council and \$100,000 to the Department of Public Safety, this recommendation of the governor was followed.⁴⁹

Governor Comstock proceeded to outline the schools' financial straits in a message on December 19, 1933. He declared that it was the intent of the legislature to provide aid to the schools for the biennium amounting to \$15 million annually and that they had done so upon the belief that the sales tax would produce this revenue. It became evident after four months of operation that this source alone would not produce the expected revenue.⁵⁰ He suggested the creation of a special school emergency fund into which would be put the amounts available from the sales tax, from the liquor revenues, and from various unappropriated moneys in the general fund. The act as passed substantially met the governor's recommendations.⁵¹

The bank problem was alleviated by the passage of Comstock's bills on this subject. The legislature, however, became obdurate in dealing with the public works program. On December 12, the governor presented a very comprehensive survey of the legislation needed to enable the state to participate in the national public works program.⁵² The lawmakers were unyielding and obstinate from the governor's point of view and when no action was forthcoming, he addressed them again:

I call your attention again also to the series of bills relating to the

⁴⁷ *The Detroit News*, Dec. 20, 1933, p. 36.

⁴⁸ *Mich. Senate Journ.*, Extra Session, 1933, p. 7.

⁴⁹ *P. A.*, Extra Session, 1933, No. 8, sec. 49.

⁵⁰ *Mich. Senate Journ.*, Extra Session, 1933, p. 138.

⁵¹ *P. A.*, Extra Session, 1933, No. 16.

⁵² *Mich. Senate Journ.*, Extra Session, 1933, p. 99.

proposed State and municipal public works projects. Without this legislation, the people of the State of Michigan cannot participate properly in the President's program for recovery. Failure to act will stamp this legislature as the first slacker legislature in the history of the State.⁵³

A day later *The Detroit News* bore the statement: "Determined to reject every major administration proposal for legislation to permit the State to participate in the Federal recovery program by launching of public works projects, the Legislature today was ready to adjourn its extraordinary session."⁵⁴ The legislature thus put itself in line for the appellation "slacker."

As early as December 4, Comstock had forecast the necessity for a second special session. He explained at that time that only matters of immediate and emergency import had been submitted to this first special session. "There will be another special session of the Legislature convened at a later date," he promised, "to consider many matters of constructive reform now being carefully studied by the Legislative Council and your Executive Department."⁵⁵ When a governor cannot force his program through the legislature in a special session, he has recourse to the power of calling repeated sessions until that body does accede to his demands. With the defeat of the public works program in the first special session, consideration of that program took precedence over all else in the second special session called February 19, 1934. Governor Comstock reminded the legislators:

To my mind the most important subject you have to consider is the series of bills drafted for the purpose of making it possible for our State and municipal governments to participate in the President's program for national recovery. These Bills have been before you in your first special session. You are all familiar with the outcome of that session. Since then the necessity for action has become increasingly evident.

This time the legislature felt his increasing pressure and re-

⁵³ *Ibid.*, p. 139.

⁵⁴ *The Detroit News*, Dec. 20, 1933, p. 1.

⁵⁵ *Mich. Senate Journ.*, Extra Session, 1933, p. 46.

sponded by passing Public Act 39 authorizing the construction of revenue producing public improvements and the issuance and sale of bonds therefor.

This legislature likewise was called upon for many additional appropriations for state departments and commissions. In one act, seventeen requests were granted with an appropriation totaling \$950,285 for 1934 and \$919,475 in 1935. In addition to providing for departments and commissions, this act also set aside additional funds for certain school districts and the legislature. The largest single item was \$500,000 each year for the medical treatment of children.⁵⁶

The special session further yielded to the governor's demands for appropriations by passing favorably upon a grant of \$100,000 to the Michigan Tourist and Resort Commission⁵⁷ and making available \$360,000 to cover the soldiers' and sailors' real property exemption for which the state is liable to the counties.⁵⁸

PROBLEMS OF THE DEPRESSION OF 1937

The special session called by Governor Frank Murphy in the summer of 1937 was not significant from the point of view of appropriations. His only request for funds was, "the appropriation of a reasonable sum to provide for snow removal in certain areas." This request would seem surprising in view of his veto of a biennial appropriation of \$600,000 for this purpose passed in the regular session. According to the press the matter of snow removal figured large in the trades made in the vote round-up to gain support for the governor's civil service bill, and it was intimated that this item was included in the call for the special session as payment for past favors.⁵⁹ By its first act the legislature passed \$200,000 for this purpose for county roads.⁶⁰

The most important special session in the two decades covered in this study, from the standpoint of the amount of money

⁵⁶ *P. A.*, Extra Session, 1934, No. 36.

⁵⁷ *Ibid.*, No. 1.

⁵⁸ *Ibid.*, No. 2.

⁵⁹ *The Detroit Free Press*, July 31, 1937, p. 8.

⁶⁰ *P. A.*, Extra Session, 1937, No. 1.

appropriated, was the second special session called by Murphy in August, 1938. The business recession which occurred in 1937 made it necessary for him to ask the legislature for a \$10 million "stop-gap" appropriation to finance emergency relief. The difficulty of planning appropriations for a biennium was again illustrated by this session. There were hints voiced by skeptical Republicans that they might refuse to sanction the appropriation. However, Senate Republicans agreed, with little delay, to the enactment of the welfare appropriation. Before doing so they made things as embarrassing as possible for the fifteen Democratic Senators by expressing their opinion of Governor Murphy's fiscal policies. Their spokesman argued: "It is very revolting and against every instinct I have to appropriate another \$10,000,000 on top of the huge deficit that already exists and then lack the courage and be such a moral coward as not to provide the revenue to meet it."⁶¹

The House attempted to create a legislative committee with authority to control the release of relief funds and to direct what portion of the \$10 million could be spent each month. The Senate repeated this attempt but it was again defeated. As finally approved, the bill was in the identical form in which it had been introduced by the administration.⁶²

CONCLUSION

Of the thirteen special sessions called in this twenty-year period, four were primarily concerned with appropriations and in four others expenditures were one of the major considerations. The privilege which the chief executive in Michigan has to call and limit the considerations of a special session is a far more important factor in his control of appropriations than is commonly realized. The special session is important as a partial, if inadequate, solution of the financial problems that grow out of biennial legislative sessions. The difficulties of laying out a financial plan two years in advance have long been recognized. The special session offers opportunity for patchwork

⁶¹ *The Detroit News*, Sept. 1, 1938, p. 1.

⁶² *P. A.*, Extra Session, 1938, No. 1.

modifications when annual regular sessions are not held.

Economic crisis adds to the importance of this particular power too. The extent to which Governor Brucker was able to dictate cuts in appropriations in the special session of 1932 emphasizes this fact. On the other hand, the reluctance of the legislature to make straight percentage cuts at that time shows the jealous interest which that body takes in the details of Michigan's financial policy. Although the wiser course might have been to make selective reductions, it is doubtful whether a large legislative body would be capable of entering into such an extended and detailed weighing of one need as against another. The inevitable breakdown of the expenditure plan in depressions and the leadership which the governor must assume at such times was evident again in 1938. Murphy's control of the business of that special meeting indicates that even a determined opposition has few alternatives and must usually accept the governor's program in a crisis.

The power that the governors of Michigan have to secure expenditure outlays as requested in extra session is strengthened by the fact that they can call a number of such sessions. If, like Comstock, a governor cannot get what he wants in the first extra session, he can summon the recalcitrant lawmakers back to Lansing until they eventually capitulate to his demands. It seems that as long as Michigan continues to have biennial rather than annual sessions, there will arise circumstances in which the executive must call special meetings of the legislature. Experience indicates that his program may be more completely achieved under those circumstances than during a regular session.

III

THE VETO POWER AND THE ROLE OF THE GOVERNOR IN THE APPROPRIATION PROCESS

A CAREFUL CONSIDERATION of the governor's veto power, particularly his authority to veto items of appropriation, is paramount in an investigation of the executive's part in financial legislation. The veto, although a negative power, was the first means by which the governor could exert a positive force in this sphere of legislation, for it enabled him to eliminate excessive, wasteful items at the final stage of appropriation bills. Michigan governors were vested with this power to veto items in appropriation bills by Article V, section 37, of the constitution of 1908. "It places, in part, the responsibility for appropriations made for the state upon the governor," the framers of this new section of the constitution explained in their address to the people.¹

ADOPTION OF THE ITEM VETO

Although this provision was a new one in Michigan, the item veto had been incorporated in the fundamental laws of twenty-four states at the time it was adopted in this state. The Confederate constitution of 1861 marked the first use of this device. The step was taken there, first, to overcome the inadequacy of the ordinary veto when applied to appropriation bills, and, second, to serve as a counterpart of the executive budget. It was a means by which the Confederate president could defend his budget estimates.²

After the collapse of the Confederacy, the item veto was not lost sight of, but was incorporated at once into the constitutions of Georgia (1865) and Texas (1866). It has spread so that it

¹ *Proceedings and Debates of the Constitutional Convention of the State of Michigan* (Lansing, 1907), II: 1423.

² Roger H. Wells, "The Item Veto and State Budget Reform," *Amer. Pol. Sci. Rev.*, XVIII (1924): 782-91.

now exists in thirty-nine states.³ When the new device was first introduced into the states, its usefulness as a protection to the executive budget disappeared for a time for the states had not as yet developed executive budgets. The primary purpose of the item veto when adopted by the states was to prevent unconstitutional appropriations; but in time this class of vetoes was exercised on the general grounds of economy.⁴ Roger H. Wells declares that "owing to the increasing cost of government and the extravagant habits of legislatures, the original intent of the item veto has become subordinated to a demand that the governor extensively use his veto authority as a means of compelling the state to live within its income."⁵ In theory this power of the governor is negative and destructive. Yet, it must be admitted that the use of the veto offers a spear-head of leadership and permits the governor to become a determining force in the process of appropriation. Even in the days before the governor had been widely endowed with the power to delete items, Bryce observed that in ordinary times the vetoing of bills was a governor's most serious duty, "and chiefly by his discharge of it he is judged." It still holds true that it is in this "quasi-legislative capacity" that a "state governor usually makes or mars his reputation."⁶

Proposal number 279 to give the governor power to veto items in appropriation bills was offered to the Michigan Constitutional Convention by Professor John A. Fairlie, of the University of Michigan, on November 21, 1907, the nineteenth day

³ New York State Constitutional Convention Committee, *Problems Relating to Executive Administration and Powers*, VIII (1938): 13. Governors of North Carolina have no power to invalidate legislative bills either as a whole or in part. The only "veto-states" in which the governor cannot veto specific items in appropriation are: Indiana, Iowa, Maine, New Hampshire, Rhode Island, Tennessee, Vermont, and Nevada.

⁴ N. H. Debel, *The Veto Power of the Governor of Illinois*, Univ. Ill. Studies in the Social Sci., VI (1917): 120-23. See this for the experience of Illinois on this point.

⁵ Wells, *op. cit.*, p. 783.

⁶ James Bryce, *The American Commonwealth* (New York: Macmillan, 1914), I: 500, 539.

of the convention. The committee on the executive department, to which the proposal was referred, recommended that it pass. The item veto section was approved in the committee of the whole convention and the convention proper without debate or amendment.⁷ The value of the veto as an economy device to counteract legislative log-rolling was pointed out in the following manner:

The necessity of this provision is found in legislative experience. The mutual exchange of courtesies by members of the legislature whereby one agrees to support the appropriations desired by others, in the consideration that others will support those in which he is interested, has led to extravagance and to many vicious appropriations. . . . The restrictions contained in this section, it is anticipated will prevent such practice with distinct benefit resulting to the state.⁸

For a third of a century, the governors of Michigan have thus been able to eliminate excessive, wasteful appropriations without jeopardizing the safety of appropriations that are essential to the proper conduct of state affairs.

GENERAL USE OF VETO POWER TO ECONOMIZE

One student of government is of the opinion that executive leadership has become so thoroughly established in Michigan that a governor can no longer hope for a successful administration unless he is able to control the legislative program. He stressed the value of the veto in the exercise of this leadership and declared: "Under our system of party irresponsibility and 'ward representation' with its 'log-rolling' tactics, legislative control necessitates a frequent exercise of the veto or, yet of greater importance, independence and fearlessness in its use. . . . In recent years few governors have refused to accept this responsibility."⁹

⁷ *Proceedings and Debates of the Constitutional Convention of the State of Michigan*, I: 109, 274, 380-82, 468, 492-94; II: 1292, 1377, 1423.

⁸ *Ibid.*, II: 1423.

⁹ Harold M. Dorr, "The Executive Veto in Michigan," *Mich. History Mag.*, XX (1936): 104-5.

It is a salient point that the veto was used as a check on legislative appropriation in 104 instances out of a total of 401 vetoes between 1908 and 1940. In other words, 26 per cent of the vetoes in Michigan in a period of thirty-two years were limitations on legislative expenditures. An analysis of the vetoes in each administration (Table II) emphasizes the extent to which each governor employed the veto to bring about economies.

TABLE II
THE RELATION OF VETOES TO APPROPRIATION BILLS, 1909-1940

Governor	Bills Vetoed for Reasons of Economy	Appro- priation Bills Item Vetoed	Total Number of Vetoes	Percentage of All Bills Vetoed That Limited Appropriation
Warner.....	0	0	8	0
Osborn.....	13	21	54	62
Ferris.....	1	0	23	4
Sleeper.....	1	0	22	44
Groesbeck.....	1	2	48	6
Green.....	15	28	120	36
Brucker.....	0	4	28	14
Comstock.....	2	2	31	13
Fitzgerald.....	3	4	26	25
Murphy.....	4	2	23	26
Dickinson.....	0	1	18	5
	40	64	401	25.9
Total appropriation bills vetoed.....				104
Total number of all bills vetoed.....				401
Per cent of total that were appropriation bills.....				25.9

The legislature may reconsider a veto, but usually the governor's action is final. In Michigan, as soon as all appropriations have been made, the legislature sets a date for final adjournment and then adjourns temporarily. During the recess period, a great number of bills reach the governor, many of which are disapproved. Thus, the governor is compelled actively to veto

all measures, and the legislature is assured of an opportunity to reconsider all vetoed measures, although when the legislature reconvenes for final adjournment, there is seldom a quorum present.

Legislatures from 1920 to 1937 showed little disposition to enact statutes over executive disapproval. In the decade of the nineteen-thirties the legislators returned upon two different occasions, and both times it was not upon their own initiative but at the behest of the governors, who backed their invitations with threats of special sessions. Murphy, in 1937, urged the members to reconvene to pass a satisfactory civil service bill. Although they complied in this matter, his vetoes of appropriation bills were put in jeopardy at that time when an abortive effort was made to override them. Dickinson, in 1939, insisted that the legislators return to balance the budget. Again the legislators acceded to the executive's principal demand, but this time they succeeded in overriding four vetoes. Included in these reconsidered measures were three out of thirteen items which the governor had pruned out of the general appropriation bill.¹⁰

Legislatures have not been inclined to accept executive leadership in appropriations on mere threat of veto. In 1935 Fitzgerald repeatedly threatened that if the legislature did not restrict appropriations to anticipated revenues, which would permit balanced budgets, a number of bills would be vetoed.¹¹ A month later, in a special message, he presented figures to the legislature showing that the budget would be out of balance more than \$5 million the first year and approximately \$3 million the second year. He warned, as follows:

Several courses are open to me which would make it possible to keep the cost of government within revenue, without the necessity of imposing new taxes, even though legislative appropriations remain

¹⁰ Although there were several contributing factors, the return of the legislators for final adjournment in 1941 was primarily to override gubernatorial vetoes. For a discussion of the 1941 session, see Chapter VIII.

¹¹ *The Detroit News*, April 20, 1935, p. 3.

out of balance. But it should not be necessary for me to override or correct legislative decision.¹²

Nevertheless, it appeared when the legislature adjourned that appropriations would exceed revenues of the first year by \$6 million and the second year by about \$3.7 million.

Under similar circumstances Governor Murphy threatened to use the veto. He called legislative leaders into the executive office and presented them with a list of excess appropriations which totaled \$19,840,310. He emphasized that if these appropriations were made, the budget could not be balanced. He demanded a balanced budget and threatened to use his veto power to attain that end. Despite this threat, the legislature made most of the appropriations and thereby caused expenditures to exceed estimated revenues by \$18 million.¹³

The experience of Michigan bears out the comment of one writer who claims that the item veto "has encouraged legislators to please their constituents by voting for appropriations far in excess of anticipated revenues thus forcing the governor to make the inevitable reductions and incur the wrath of the interests adversely affected."¹⁴ Governor Green favored a general property tax levy for 1927-28 set at \$22.5 million, and in order to achieve that figure it was necessary for him to cut \$6,498,585.55 out of the legislature's overgenerous appropriation—nearly a quarter of the whole.¹⁵ A decade later Murphy found himself in much the same situation. At that time he reminded the too-generous legislature: "The exercise of the veto power is not a pleasant task and you may be assured that it was exercised only after a careful consideration of all the factors involved."¹⁶

¹² *Mich. House Journ.*, 1935, II: 1375.

¹³ *The Detroit News*, June 9, 1937, p. 15.

¹⁴ Austin F. Macdonald, *American State Government and Administration* (rev. ed.; New York: T. L. Crowell Co., 1940), pp. 209-10.

¹⁵ *The Detroit News*, May 17, 1927, p. 8. For Green's subsequent action p. 60.

¹⁶ *Mich. House Journ.*, 1937, II: 2267.

EXERCISE OF THE ITEM VETO

The power to disapprove of any item or items in appropriation bills has been available to twelve chief executives in Michigan. All but three governors made use of section 37 of Article V as a check upon extravagant and improper appropriations. Inasmuch as Governor Warner had served two terms (1905-9) before this new power was incorporated into the constitution, it is not surprising that he completed his third term without recourse to it. Chase S. Osborn (1911-13), who felt the public looked upon the governor "as its quasi-legislative representative,"¹⁷ vetoed certain items in twenty-one bills. His action was recognized by the press as an innovation:

As a usual thing executives are content to consider appropriations for public purposes as a whole, and if the general purpose is good, they will stand for a liberal loading with excess items which might well be eliminated. Governor Osborn has evidently gone through the items of institutional appropriations very carefully, and while intending to leave their actual needs provided for, he has stricken out here and there until the aggregate elimination foots up a total of nearly a million dollars.¹⁸

An example of the thoroughness with which the budget was examined in 1911 is to be seen from the items which were vetoed in the act making appropriations for the State Board of Fish Commissioners.¹⁹

Although the power to reduce items as well as veto them outright was not specifically granted by Article V, section 37, Governor Osborn reduced by \$76,500 ten items passed by the 1911 legislature. When the question of constitutionality of these reductions was broached, he stated his willingness to abide by the decision of the courts provided the matter was

¹⁷ G. N. Fuller, ed., *Messages of the Governors* (Lansing: Mich. Hist. Comm., 1927), IV: 577.

¹⁸ Editorial, *The Detroit News*, May 4, 1911, p. 4.

¹⁹ In this instance, Osborn deleted four items of less than \$100, three of less than \$300, and of the fifteen items vetoed in the bill no single one was over \$1,500. *P. A.*, 1911, No. 293.

contested.²⁰ The leading case at the time, *Commonwealth v. Burnett*,²¹ upheld the governor of Pennsylvania in making reductions and must have given Osborn the needed assurance to do the same. He also struck out forty-nine whole items, thereby saving \$441,732, and numerous appropriation bills were also killed by the regular veto.

Osborn's immediate successors, Governors Ferris and Sleeper, allowed the item veto to fall into disuse. Alex J. Groesbeck revived the economy device in his second term (1923-25) to cut out of the act for special state purposes twelve separate items totaling \$640,000, thus effecting a 1 per cent reduction of appropriations for the biennium. In his last term of office, Governor Groesbeck followed the Osborn precedent and decreased an item by \$60,000; further drastic cuts in appropriation bills were expected but never materialized.²² It may seem strange that a governor who was accused of being an autocrat as well as a threat to representative government to such an extent that the speaker of the House came down from the chair to defend him should have used the veto so sparingly.²³ Groesbeck,²⁴ however, has cleared the mystery succinctly in his own words:

1. I made it my business to co-operate with the legislature and to give the members full information regarding necessary appropriations.
2. Through the Administrative Board and Accounting Division we knew daily expenditures, of all departments, institutions, and other activities of the government.
3. We knew to a penny whether previous appropriations were being exceeded or were being kept within the sums appropriated.

²⁰ It was not until 1931 that the constitutionality of the reduction of items was tested. See pp. 64 ff.

²¹ 191 Penn. 161 (1901). In 1885 the governor of Pennsylvania, without specific constitutional authority, first ventured to reduce items of appropriation as well as disapprove them in their entirety; in 1901 this practice was upheld by the State Supreme Court and has been cited thenceforth as authority by those who sought to reduce as well as strike out appropriations.

²² *The Detroit News*, May 17, 1925, p. 5.

²³ *Mich. House Journ.*, 1923, II: 1215 ff.

²⁴ Letter to the author, November 1, 1940.

4. We had full detailed information as to cost per capita of inmates of all institutions and likewise the cost of operating each and every agency of the state over a period of years.

5. We appointed Henry Croll, a very capable and trustworthy official, to compile this information from month to month during the year and bring it down to date.

6. We kept the various committees of the Legislature and its *leading* and active members fully informed regarding the above and uniformly discussed the problems involved.

7. When the legislature met, this general picture was placed before all members in understandable form, devoid of all complications so that all appropriation problems were easily digested.

8. Then the committees in charge would meet with us and canvass every proposed appropriation thoroughly so that *when the Legislature acted its action would represent the combined judgment of everyone interested*, including heads of departments, institutions, etc.²⁵

In a postscript to his letter, the former governor summarized as follows: "The above explains why I never had to resort to the veto. As I recall the facts, I only vetoed a few appropriation bills, and those because, first we had no available money to take care of the particular appropriation, or secondly, because some member would put through an appropriation for matters in which the public was not particularly interested."

Contemporary reports bear out Groesbeck's statement as to why his methods were so successful, namely: that committees in charge met with the governor and the leading members of both houses to discuss the problems involved and that the recommended appropriations represented the combined judgment of everyone interested. For instance, the following statement appeared in *The Detroit News*:

The University of Michigan will receive \$4,007,000 for new buildings next year if the appropriation bill reported out today by the Senate finance committee is passed by the Senate and concurred in by the House. This sum, agreed upon in a meeting last night of the committee with Governor Groesbeck, represents an increase of \$507,000 over the bill passed by the House a week ago. It represents

²⁵ Italics in this paragraph are the author's.

a reduction of \$3,270,000 from the total requested by the University, but is substantially the same program which Dr. Marion LeRoy Burton [President of the University] informed the committee would be satisfactory.²⁶

Governor Green was pictured by the press in May of his first term as "hacking furiously at the appropriations made by the spendthrift legislature of 1927." The accuracy of this portrayal is borne out by the fact that Green vetoed outright items totaling \$2,990,500 and made a total reduction in items amounting to \$2,182,787. Thus, more than \$5 million, or almost 10 per cent of the total amount appropriated by the legislature, were deleted in 1927.²⁷ This is all the more remarkable because the largest single tax clause appropriation was the governor's own deficiency bill calling for an expenditure of \$4,660,072, which, of course, he did not alter. Governor Green credited himself with making still further economies when he reviewed the financial condition of the state in his second inaugural: "The non-tax clause bills, as passed and signed were further reduced by executive order by approximately one million dollars."²⁸

Governor Green used the item veto in his second administration more conservatively and eliminated items amounting to only \$1,714,686, or about 3 per cent of total appropriations made by the 1929 legislature. This was accomplished by six outright item vetoes and thirty-nine reductions in items. The large number of reductions in various items, which accounted for 60 per cent of the total amount eliminated by veto, constituted a strong precedent for similar action in the next administration. There were four other item vetoes totaling \$3.6 million that were a part of the record of the second Green administration. Except for one item of \$300,000, which was deleted from the building fund for Newberry State Hospital, the other items were reductions applicable to expenditures for hospitals to be made in 1932 and 1933. In his veto message,

²⁶ *The Detroit News*, May 2, 1923, p. 20.

²⁷ *Ibid.*, May 17, 1927, p. 8.

²⁸ *Mich. House Journ.*, 1929, I: 24.

the governor admonished: "It must not be forgotten that the life of of this Legislature is two years and that my term is for the same duration. Whatever appropriations are made for a longer period are in the nature of a recommendation to the next legislature."²⁹

Governor Brucker emulated his immediate predecessor in the manner in which he slashed the legislature's appropriations for almost every department and institution. Unlike Green, however, he called upon private individuals rather than state officials for advice. Brucker set up an Advisory Council on State Finance and Accounting which gave the governor a written report suggesting cuts in the general budget bill.³⁰ This advisory group endeavored to discover the points at which the knife could be applied most advantageously. Of the proposed increases in departmental appropriations in 1931, that for the Department of Public Safety was the largest. Mr. Ayres' committee gave "careful consideration" to the proposal for increased capital outlays for the State Police with the result that the governor, acting on advice of his council, vetoed an item of \$24,000 for buildings for the State Police posts at Traverse City, Rockford, and Niles.

Capital outlay for the Department of Public Safety was not the only appropriation affected by Governor Brucker's exercise of his item veto power. He reduced twenty-eight separate institutional items to cut the total appropriation for state institutions by 5 per cent. He reduced fifty-seven departmental items to achieve a 10 per cent decrease in their total grant. Ten state boards also suffered 10 per cent reductions in their personal service items, and six special state purpose items were considerably reduced. By these bold strokes the governor subtracted

²⁹ See *P. A.*, 1929, No. 324, veto attached thereto.

³⁰ C. L. Ayres, President of the American Life Insurance Company, was chairman; other members were Charles B. Warren, lawyer, and Frank W. Blair, banker, all of Detroit; R. C. Morley, Jr., of Saginaw; Heber W. Curtis, of Grand Rapids; R. Wayne Newton, Taxation Counsel, of Lansing; Stuart Perry, Adrian publisher; John M. Bush, mining executive of Marquette; and William J. Smith, of Battle Creek. This citizen committee was known to have had at least two conferences for the express purpose of preparing its report. See *The Detroit News*, June 5, 1931, p. 26.

\$2,161,577 from the expenditure column, or a little less than $2\frac{1}{2}$ per cent of total appropriations for the biennium. With a reduction of \$68,000 the Department of Conservation suffered more than any other department or institution and reflected the efforts to de-emphasize the department which had had a lion's share in the previous administration.

These changes caused the state departments and institutions to decrease their staffs, and to retrench in line with Brucker's economy program. In making the cuts the governor explained that his action was intended as an example that should be followed by all governmental units to bring about tax relief for property owners.³¹ Nevertheless, a policy of "sound retrenchment" was not to be accomplished in state government through gubernatorial reductions of items in the interest of economy. Two months after the beginning of the new fiscal year, the State Supreme Court invalidated the interpretation which Michigan governors had given to the item veto power that allowed the governor to reduce items as well as strike them out *in toto*.³² Consequently, the appropriation bill as passed by the legislature became law.

Brucker's successor in 1933, Governor Comstock, was primarily concerned with tax policy, and expenditures were left to the legislature's discretion. This first Democratic administration is not without significance in a study of the use of the veto power as a mechanism enhancing the governor's control of appropriation. Comstock, no longer able to make reductions in items, resorted to a less effective substitute whereby he vetoed an appropriation for the second year of the biennium and thus effected a 50 per cent reduction in an item through forcing the first year's appropriation to be spread over the entire period. For example, by Act 263 of 1933 there was appropriated \$25,350 for each of the next two fiscal years from the general fund of the state for the boys' and girls' 4-H Club fair commission. By eliminating this appropriation for the second year of

³¹ *Mich. House Journ.*, 1931, II: 1571.

³² *Wood v. Administrative Board*, 255 Mich. 220, 225 (1931). For further discussion of this case, see p. 65.

the biennium, he made it necessary to spread the grant for 1934 over two years.³³ From the total budget for the biennium the Governor deducted only \$85,350, which was an infinitesimal percentage of the total appropriation. It appeared, therefore, that the Supreme Court had shorn the executive branch of one of its most effective checks.

The election of a Republican governor in 1935 was marked by a slightly more active use of the veto power. However, the item veto was not vigorously employed by Fitzgerald for, in spite of his threats, he eliminated only ten items totaling \$584,500—hardly a dent in appropriations of more than \$80 million for each year of the biennium.³⁴ It is impossible to say to what extent the item veto might have been used because the governor was authorized by the legislature to reduce, pro rata, all appropriations in excess of revenues available.³⁵

Although Governor Murphy was armed with a special power similar to that given his predecessor, Fitzgerald, he vetoed certain items aggregating \$3,396,882 in appropriations for the first year of the biennium and \$2,370,000 for the second year—a total reduction comparable to that in the peak days of the veto power during the first Green administration. However, on the basis of percentage of appropriations vetoed, Murphy's record is not nearly as impressive as that of Green.

Governor Luren Dickinson vetoed thirteen items in the general budget bill in 1939, eliminating \$534,575 from total appropriations. Three of these items were reconsidered and passed over the veto to restore \$13,500 to state agencies. In nine instances Dickinson copied the familiar device of eliminating an appropriation for the second year and making the appropriation for the first year apply to the biennium.

³³ *P. A.*, 1933, No. 264, p. 463.

³⁴ *The Detroit News*, April 20, 1935, p. 3. The governor was quoted: "If the legislature does not send in appropriations which will permit balanced budgets every conflicting bill will be vetoed." The legislature, undaunted, made commitments several millions in excess of revenues.

³⁵ *P. A.*, 1935, No. 257. For a discussion of this power, see pp. 69 ff.

REDUCTION OF ITEMS UNCONSTITUTIONAL

The number of occasions arising where the exercise of the item veto seemed necessary and desirable in the nineteen-twenties, indicates that any reduction in the scope of this weapon would be a serious limitation on executive influence. Nevertheless, such a limitation did develop. It will be recalled that the first executive in Michigan who vetoed items—Governor Osborn—interpreted Article V, section 37, as also granting authority to reduce items.

The question of itemization of appropriations is inextricably bound up with the attempt of the governor to reduce items. It should be pointed out, however, that appropriation bills have never been itemized in the full sense. Members of the finance and appropriation committee in the first meeting of the Senate after the 1908 Constitution became effective requested instructions from the attorney general concerning the extent to which appropriation bills should be itemized. The attorney general responded with a lengthy opinion³⁶ stating that further item-

³⁶ That official advised: "While this provision [the item veto] does not in express terms impose upon the legislature the duty to separate different items in appropriation bills, it certainly was contemplated by that provision that the legislature should so frame those bills that it will be possible for the governor to exercise the constitutional power conferred upon him. It certainly is imperative that this be done if this provision of the constitution is to be given any effect. Accordingly, I think that all appropriation bills susceptible of division into distinct items should, so far as practicable, be so divided. This does not mean that every appropriation bill should be itemized to the most minute extent possible, but that the bill should be itemized under general heads, and where a specific sum of the gross amount appropriated is to be expended for a particular purpose, that amount should be separately stated as an item in the bill." Attorney General Bird took as an example the appropriation for the Industrial Home for Girls. He explained, "Section 2 appropriates for special purposes the sum of \$14,925, and specifies that certain parts of that sum shall be used for certain purposes named in the act; for example, . . . for porches at Clark, Gillespie, Haviland and Croswell cottages, \$1,500; for porch in the rear of Palmer cottage, \$200; for painting two cottages and administration building, \$750; etc. It seems to me that in order to give the governor an opportunity to exercise his power to veto separate items under the constitutional provision, some further division could well be made in the

ization of money bills was necessary under Article V, section 37, providing for the item veto. Legislative practice, however, was not altered. A comparison of appropriation statutes passed in 1907 and 1909 reveals that they are identical in form.³⁷ After 1909 the number of appropriation bills became fewer and less specific, but the right to reduce items seemed by 1930 to be the governor's right by prescription and, therefore, minute itemization was not vital to him.³⁸

The exercise of the governor's power to reduce items was declared unconstitutional in 1931 as a result of a suit instigated by two senators. Senator A. E. Wood, chairman of the Senate finance and appropriation committee, had parted friendship with the administration when the governor ignored his candidate for an appointment to the common pleas court in Detroit. Perhaps this explains his willingness to test Brucker's extensive use of the power to reduce appropriations to bring about economy. He was joined in this suit by Senator Joe C. Foster. Their action brought a quick response from Governor Brucker:

It is simply a political attempt to embarrass me at the expense of the taxpayers. I think the Governor's right to reduce items can be established beyond question. When I cut the appropriation bill, I was carrying out the pledge of economy which I offered during the campaign. I stand by my actions. They will be justified in court.³⁹

The argument of the plaintiffs was rich in precedents but poor

items above stated. For example, the appropriation of \$1,500 in a gross sum for porches at four cottages could be further itemized to indicate the amount necessary at each cottage"

³⁷ The appropriation for the State Highway Department reads identically the same in both years: "There is hereby appropriated . . . the sum of \$150,000 . . . of which \$10,000 . . . shall constitute the sum to be used for salaries and the running expenses of the department" *Report of the Attorney General of the State of Michigan*, 1909, pp. 123 ff.

³⁸ *The Detroit News*, December 5, 1930, quoted the complaint of Senator A. E. Wood: "The general budget bill is not sufficiently specific. For instance, the appropriation for all clerical help in a particular department will be lumped under the head of 'personal service.' The legislature has no way of knowing how many employees are involved or how much each will receive."

³⁹ *Ibid.*, July 1, 1931, p. 11.

in logic. The courts in six states had denied the power of the governor to reduce specific items⁴⁰ and one had upheld him in it.⁴¹ The plaintiffs protested that inasmuch as there was no change in the "tax clause" of the bill, the amount of the reductions would be collected from the taxpayers and put in the general fund. This would, it was concluded, constitute an appropriation by the governor, whereas the appropriating power is vested in the legislature.⁴²

The state's brief upholding the right of partial veto cited the fact that Brucker was not the first governor of Michigan to assume this power. "In fact," Attorney General Voorhies stated, "this has been the interpretation accepted ever since the appropriations of general state expenses have been made in one appropriation bill."⁴³ It was stressed that the consolidated budget bill does not attempt to itemize the different appropriations to a very large extent. Under such conditions the governor does not have the opportunity to cut out specific items as he formerly did, and the only method left to him is to reduce items that are provided for the expenses of state government.

After developing his argument for the item veto on the basis of precedent and necessity, Voorhies then shifted to the legal aspects: "This action on the part of the Governor is not a usurpation of the powers of the Legislature, any more than it would be for him to strike out an entire item. In either event, the Legislature has the opportunity to pass the bill in its original form when the bill is returned to it for further consideration."

To the question, "Can the governor reduce items in an appropriation bill?" the court gave an unequivocal "no."⁴⁴ Thus,

⁴⁰ *Strong v. People*, ex rel. *Curran*, 74 Colo. 283 (1925); *Fairfield v. Foster*, 25 Ariz. 146 (1923); *Fergus v. Russel*, 270 Ill. 304 (1915); *Publy v. Childers*, 95 Okla. 40 (1923); *Mills v. Porter*, 69 Mont. 325 (1924); and *Fulmore v. Lane*, 104 Texas 499 (1911).

⁴¹ *Commonwealth v. Barnett*, 199 Penn. 161 (1901).

⁴² *The Detroit News*, August 25, 1931, p. 12.

⁴³ *Ibid.*, September 2, 1931, p. 32.

⁴⁴ "Neither in the Debates (1 Debt., pp. 493, 494) in the Constitutional Convention, nor in the Address to the People (2 Debt., p. 1423) was it suggested that the power given the governor by sec. 37 includes authority to re-

the case of *Wood v. Administrative Board* settled a question which had long been freely argued but never hitherto taken to court.⁴⁵

Brucker deprecated the decision of the court, and he referred to it "as a calamity" for the already overburdened taxpayers. He condemned the plaintiffs as a "small group of willful politicians."⁴⁶ The governor then sought the co-operation of departments and institutions in a letter asking that they make every effort to hold expenditures to the reduced amount despite the court's decision. With his favorite constitutional weapon blunted by the Supreme Court, the governor hoped his influence would be enough to defeat political opposition that sought to defeat the cause of economy. In championing the fight for economy, he received formal and informal pledges of support. The State Administrative Board voted unanimously to uphold the following resolution presented by Howard C. Lawrence, State Treasurer: "Resolved, That we will release all

duce an appropriation item. The debates centered upon extending the general veto power to cover distinct items in appropriation bills so the governor could eliminate an unapproved item and escape the serious alternative of legally approving such item or vetoing the whole bill. In this State the general veto power never has included and does not include the authority to modify a bill or disprove it in part. Had the Constitutional Convention intended to enlarge such power as applied to items in an appropriation bill, presumably it would have used apt language to do so. This historical and constitutional division of powers of government forbids the extension, otherwise than by the explicit language or necessary implication, of the powers of one department to another. The language of section 37 must be read with all intendments against enlargement beyond its plain words.

"Under the facts here, the action of the governor in reducing items, being without warrant of constitutional power, was a complete nullity and did not affect the bill in any way, either as an approval or disapproval of any such items." 225 Mich. 220, 225 (1931).

⁴⁵ Earlier it was reported that the State Board of Education would bring suit against Governor Green because of his reductions of appropriations for normal colleges, and that to forestall this action he had agreed to request the State Administrative Board to advance additional funds to these institutions. This was agreeable to the Board of Education, and other reductions were accepted.

⁴⁶ *The Detroit News*, September 11, 1931, p. 13.

budget appropriations to the extent of the amount as reduced by the Governor's partial veto. Any additional requests are directed to be presented specifically forthwith."⁴⁷

POWER TO REDUCE APPROPRIATIONS TO MEET REVENUES

When the legislature, prior to the Wood case, evaded its responsibility by placing upon the various governors the burden of cutting appropriations, it was possible for the governor to preserve the financial integrity of the state and to avoid a deficit. Of course, by reducing appropriations with his veto power, he incurred the displeasure and criticism of the persons, institutions, or interests who would otherwise benefit, but apparently that did not trouble the legislators.

Legislatures in Michigan have not changed since 1931; either by inadvertence or design, governors are still often placed in an awkward and embarrassing position by quick adjournments after appropriations have been made far in excess of anticipated revenues.⁴⁸ Friends in the legislature were not entirely without thought of the intolerable position in which the governor found himself in such circumstances. Two out of three legislatures between 1935 and 1940 shifted to the chief executive the burden of balancing expenditures and revenues and accorded him unusual statutory powers to do the task. In 1935 Governor Fitzgerald was given the power to reduce allotments on a pro rata basis,⁴⁹ and in 1937 Governor Murphy was permitted to make nonuniform reductions in allotments to keep total expenditures within total available revenues.⁵⁰ These grants of authority

⁴⁷ *Proceedings of the State Administrative Board*, September 15, 1931.

⁴⁸ Michigan's constitution has what seems to be a specific constitutional budget balancing requirement. Article XIV, sec. 1, provides: "The legislature shall provide by law for an annual tax sufficient with other resources to pay the estimated expenses of state government, the interest on any state debt, and such deficiencies as may occur in the resources."

⁴⁹ *P. A.*, 1935, No. 257, sec. 1. "If the total appropriations made by the legislature for any fiscal year exceed the total revenues available for such fiscal year, the governor is hereby authorized to reduce, pro-rata, all appropriations made for such fiscal year."

⁵⁰ *Ibid.*, 1937, No. 255, sec. 3. "The governor is hereby authorized and

coupled with what remained of the item veto power enabled the governors to accomplish an otherwise impossible task.

When the legislature adjourned in May, 1935, appropriations for the forthcoming fiscal year were estimated to exceed prospective revenues by about \$6,268,271 and for the second year by about \$3,658,988. A sentence inserted in conference committee and noticed by comparatively few legislators authorized Fitzgerald to make a pro-rata reduction in all appropriations. Thus the session was far less disastrous to the governor than it otherwise would have been.⁵¹

"The responsibility for giving Michigan a pay-as-you-go government now rests with me," Fitzgerald declared, "and I welcome it. The people may rest assured I will not hesitate to use this newly-conferred authority."⁵² This promise was kept. At first a 4 per cent reduction was contemplated in expenditures for the first year of the biennium, but finally he cut appropriations 5 per cent, or about \$4 million. Unforeseen increases in revenues made possible some relaxation, and several departments and institutions obtained extra money. The 5 per cent edict applied to all state expenditures with the exception of such items as debt service and salaries protected by the constitution. The amount of money involved in these exceptions was negligible. A uniform reduction of 5 per cent was believed to be the fairest way to carry out the legislative mandate. All departments, including those run by elective officials who are more or less independent of the governor, abided by the reduction.⁵³ A subsequent increase in revenues brought some easing of the horizontal limitation, and certain appropriations were augmented by the State Administrative Board. In April of 1936, the first fiscal year of the biennium, it was announced that the powerful "prorate clause" would not have to be applied in the

directed to make such reductions in allotments as he deems necessary to keep the total expenditures for any fiscal year within the total revenues available for such fiscal year."

⁵¹ *Ibid.*, 1935, No. 257, sec. 1.

⁵² Quoted in *The Detroit News*, May 26, 1935, p. 1.

⁵³ *Ibid.*, July 18, 1935, p. 11.

second fiscal year "unless state revenues collapse." Auditor-general John J. O'Hara, who was chairman of the State Administrative Board's finance committee, made the following statement: "If sales tax collections continue at the present rate and people still buy liquor, I see no reason why the 5 per cent cut should not be restored. Business would have to come to nearly a full stop to change our minds."⁵⁴

In 1937 several factors were responsible for placing the proposed budget out of balance. Among these were the following: pressure groups, the efforts of local governments to shift certain expenses from local budgets to the state, and a growing social consciousness with demands that the state look after the aged, sick, and afflicted. Furthermore, free spending was stimulated by unsubstantiated rumors that sales tax, liquor, and other revenues would run far higher than the budget director had estimated. Budget Director Smith denied he had left a cushion, but the legislature refused to listen to counsel from him, from the governor, or from its own leaders.⁵⁵ When it appeared that adjournment was imminent and expenditures would exceed revenues by more than \$18 million, Murphy and his financial advisers conferred with House and Senate financial leaders to draft a plan which would give the governor extraordinary powers to adjust expenditures to revenues. It was acknowledged on all sides that veto powers were not sufficiently large or flexible to meet the situation.⁵⁶ In spite of vetoes totaling \$3,396,882, the gap between appropriations and estimated revenue for the fiscal year 1937-38 was still nearly \$15 million.⁵⁷

⁵⁴ Quoted in *The Detroit News*, April 10, 1936. By direction of Act No. 197, Harold Smith, Budget Director, prepared a statement in which it was shown that legislative appropriations of \$82,085,362 were supplemented by deficiency appropriations of \$13,402,682 making a total of \$95,488,045 available in the fiscal year July 1, 1936-June 30, 1937.

⁵⁵ See p. 155.

⁵⁶ *The Detroit News*, June 24, 1937, p. 12.

⁵⁷ *Mich. House Journ.*, 1937, II: 2266. Governor Murphy directed the attention of the legislature to the problem: "Appropriations exceeding 125 million dollars for the first year and 123 millions for the second year of the biennium were approved by the legislature, while reasonable estimates of

Budget Director Smith contended, however, that this statutory power to reduce was more theoretical than actual, inasmuch as such large cuts could be made only if "certain essential state services are wrecked."⁵⁸ He figuratively threw up his hands and conceded that the legislature had left an impossible task. Smith complained:

If the gap were \$5,000,000 or \$8,000,000, something might be done, but, when it gets to \$18,000,000, the only thing to do is to look for a miracle. The impression has got around that Governor Murphy . . . was given the power to balance the budget. That's a wrong impression. All he got was the Legislature's permission to do a job that is impossible.⁵⁹

By October some progress toward doing the impossible was reported; instead of an \$18 million deficit, the governor was able to estimate a deficiency of not more than \$3.5 million. Charged with the task of spreading the state's income to cover actual needs, the budget director conferred with heads of institutions and departments, and as a result he trimmed away more than \$12 million. Among the larger cuts were those for departmental appropriations, \$7 million; school aid, \$2.8 million; old-age assistance, \$2 million; and welfare relief, \$500,000.

At the time, Governor Murphy explained the guiding principles in making the nonuniform reductions:

In asking the co-operation of the heads of the several departments and institutions, which in almost all cases was willingly given, the budget director has carefully considered the character and public importance of their programs as well as the apparent intent of the

revenue of each of these years is approximately \$107,000,000. Obviously this presents a very difficult if not impossible budgetary situation for the executive to deal with under the powers at his disposal. Under the constitution the executive cannot exercise a partial veto. He may only veto an entire appropriation item With the veto power so limited I have found that it will be necessary to rely mainly upon the power of allotment granted me by the legislature, and I have approved a number of major appropriation measures with the understanding that the allotments would be considerably reduced."

⁵⁸ *The Detroit News*, June 27, 1937, p. 17.

⁵⁹ *Ibid.*, July 7, 1937, p. 1.

Legislature with respect to such. This prevented an entirely uniform or horizontal reduction of appropriation. It is obvious, too, that savings had to be effected principally in those departments and services where largest increases have been granted.⁶⁰

In a report to Michigan citizens, the salient facts concerning the financial affairs of their state government were summarized briefly as follows: the governor vetoed certain items aggregating \$3,396,882; the governor withheld from release, under his authority to fit expenditures as nearly as practicable to income, the sum of \$10,051,236. The report concludes: "Thus the budget came out at the end of the fiscal year, in this manner: The sum of planned and unplanned expenditures was (1) about $8\frac{1}{4}$ million dollars less than the corresponding appropriations as approved by the Governor; and (2) nearly $8\frac{3}{4}$ millions more than the corresponding State income."⁶¹

For the second fiscal year of the biennium 1937-39, allotment revisions were made in about three hundred separate appropriations totaling \$18,600,162 under original legislative grants. "We are not entirely satisfied all of them are equitable or necessarily accurate. Each allotment, of course, is subject to change if Frank D. Fitzgerald so desires," Budget Director Smith explained at the end of the Murphy administration.⁶² It is well known that these cuts were not always adhered to, and the deficit continued to increase. When expenditures are compared with appropriations, it can be seen that in some instances even the liberal legislative appropriations were exceeded.

LEGALITY OF THE GOVERNOR'S STATUTORY POWER TO REDUCE APPROPRIATIONS

Because the power to prorate and reduce appropriations resembled the unconstitutional power to reduce items, hue and cry were raised that it, too, was unconstitutional. George Lord,

⁶⁰ *Ibid.*, October 3, 1937, p. 4.

⁶¹ Office of the Budget Director, *Finances of the State Government, July 1, 1937-June 30, 1938*, Issued pursuant to Act No. 231, P.A., 1937. Adjustment of executive allotments was necessary.

⁶² *The Detroit News*, December 31, 1938, p. 19.

manager of the National Tax Survey Bureau and a former member of the State Tax Commission, argued that the legislature had no right to give the executive the power to change appropriations; he contended that the state constitution permits the governor to veto a legislative appropriation but not to reduce it. In answer Budget Director Thompson replied: "The courts have to pass on every law but nobody has shown any inclination to go into court about this part of this law."⁶³

Although the "prorate clause" was included in the departmental budget bill of 1935, Governor Fitzgerald interpreted it as applicable not merely to financial outlay for the departments but to all appropriations of the legislature.⁶⁴ He said that he would welcome threatened legal action by Democratic legislators:

The Legislature voted me that authority and it would be most interesting to see some legislators alleging in court that they didn't know what they were voting on. The fact is that every member of the conference committee knew all about that amendment. No attempt was made to deceive them. Whether they carried the word back to all the members of the House or Senate, I don't know. If they did not, it is certainly not the fault of the executive office.⁶⁵

Speaker George A. Schroeder departed from precedent and made a plea from the rostrum for approval of this budget bill and it passed by a vote of sixty-seven to four. The bill and the amendment, which authorized the governor to reduce appropriations, were passed in the midst of raffish horseplay, and it is not surprising that some of the legislators were not aware of all the implications of the departmental budget bill. The scene was described in the press as follows:

Newspapers and House Journals were being thrown with deadly accuracy. Bags full of water were dropped from the galleries squarely upon the desks of the more sedate members. The singing left some-

⁶³ Quoted in *The Detroit News*, July 18, 1935, p. 11.

⁶⁴ *P. A.*, 1935, No. 257, sec. 1.

⁶⁵ Quoted, *The Detroit News*, May 27, 1935, p. 4.

thing to be desired in regard to quality but possessed a gusto that any operatic director would enjoy.⁶⁶

Little wonder that no legislator saw fit to challenge in the courts the exercise of a power delegated to the governor unanimously in the midst of such complete bedlam.

When the question of constitutionality of the power to reduce appropriations was raised against Murphy, the interrogator could not be put to flight by simply reminding him that he may have been preoccupied with innocent fun when the authority was given. Wendell Brown, Detroit attorney, filed suit asking for a declaratory judgment on legality of the Act of 1937.⁶⁷ The state asked Judge L. W. Carr of the Ingham Circuit Court to dismiss the suit. Attorney General R. W. Starr argued that the bill of complaint showed no actual controversy which would warrant the court's accepting jurisdiction, and that the plaintiff had insufficient interest in the matter to warrant suit. Judge Carr dismissed the suit and concluded:

It is obvious that the provision of the statute that is here assailed does not either expressly or impliedly contemplate expenditures for other purposes, of deductions that may be made. On the contrary, action by the government is authorized only if the revenue is insufficient to cover the aggregation of appropriation.

Judge Carr said that Brown's bill of complaint made allegations "in a general way" that unauthorized expenditures might occur, but that the charges lacked both "certainty and definiteness."⁶⁸

Thus was resolved the legal attack upon the governor's statutory power to reduce appropriations, a power not unlike that which the chief executives attempted to exercise under Article V, section 37, before the decision in the Wood case in 1931.

EVALUATION OF THE GOVERNOR'S STATUTORY POWER TO PRORATE AND REDUCE

The devices resorted to in 1935 and again in 1937 were more

⁶⁶ *Ibid.*, May 25, 1935, p. 1.

⁶⁷ *P. A.*, 1937, No. 255, sec. 3.

⁶⁸ *The Detroit News*, October 21, 1938, p. 47.

effective than the partial veto because they were more flexible. Once an item was partially vetoed, that is reduced, it was not to be altered even though the condition necessitating it had changed. However, when allotments were reduced under the delegated power to make expenditures fit revenues, an increase in tax collections might warrant lifting the limitation as Governor Fitzgerald did in 1936.

From the standpoint of the executive, this additional grant of power was not altogether satisfactory. Murphy explained that although appropriations in excess of probable income are proper and justifiable in times of extreme emergency, in dealing with ordinary conditions a legislature cannot or should not evade its share of the responsibility for unsound fiscal management by resorting to a device of this kind as a means of checking its own improvidence or relieving its impotence. He classed it as merely a device to cast on the executive the responsibility of relieving an impossible situation resulting from legislative abuse or incompetence. He said that the exercise of this power often requires drastic curtailment of popular projects or public services that are already established and have come to be regarded as more or less indispensable, and concluded that "the resulting difficulty, political and otherwise, is obvious."

Murphy admitted that "on the other hand, the present tax structure of Michigan is such as to render its income somewhat volatile. This fact tends to make desirable some provision by which expenditure can be correctly adjusted to income by administrative action."⁶⁹ To provide for such a contingency a number of other states have authorized an administrative body to decrease or suspend expenditures regardless of stipulated appropriations enacted by their legislatures. The authority for making actual reductions lies in the hands of the governor or an officer or agency responsible to him in most instances.⁷⁰ When such power is granted for purposes of fiscal control, it is to be commended, but when it shifts to the governor the responsibility of reducing appropriations by millions to balance the budget, it

⁶⁹ Letter to the author, February 4, 1941.

⁷⁰ "The News in Review," *Nat. Municipal Rev.*, XXX (1941): 46-47.

cannot be condoned. Of course, every legislature does not reinforce the constitutional right of a governor to veto items outright. However, all legislatures do not appropriate so freely that they obligate themselves to bolster the governor's veto power. W. A. Markland made the correct inference when he wrote:

The lawmakers of 1939 are essentially more conservative than those of 1937. They are going to be more careful about appropriations. Neither are they likely to pass the buck to Governor Fitzgerald [Dickinson as it turned out] as it was passed to Governor Murphy two years ago.⁷¹

CONCLUSION

The veto, the item veto, and the delegated power to prorate and reduce appropriations have given Michigan governors considerable power. The item veto was incorporated in the constitution of 1908, and Governor Osborn three years later used it vigorously to restrict expenditures which he thought were excessive. From that time on, it was occasionally resorted to, but it was not until the late nineteen-twenties that it was extensively employed. Without specific constitutional authority, the governors had enlarged the item veto power by reducing as well as striking out items in their entirety. They took this interpretation because the appropriation bills had never been properly itemized. Just as the usefulness of the veto device was becoming fully apparent, its scope was narrowed by the judicial interpretation that it was unconstitutional to reduce items. Since this decision in 1931 the item veto has not been of great value to the governors.

Despite the fact that the usefulness of the item veto was limited by judicial interpretation, the legislature continued to pass to the governor the responsibility of balancing current appropriations and revenues. A stratagem of doubtful legality was granted him by statute which enabled him to prorate appropriations and later to reduce expenditures to match revenues. This device might be approved as a retrenchment mechanism in case revenues fluctuated; however, in Michigan it has been

⁷¹ *The Detroit News*, March 3, 1939, p. 9.

perverted to enable the legislature to place its responsibility of balancing the budget on the shoulders of the governor.

Exercise of these several powers enables the governor to affect appropriation totals, but the arrangement is not entirely a satisfactory one from the governor's point of view. This is especially true where the governor is expected through exercise of these powers to reshape the whole expenditure outlay. The very existence of the veto and the item veto, whether employed or not, divides responsibility for expenditures. It is a case of equal responsibility without an equal share in management. This arrangement may encourage an extravagant policy on the part of the lawmakers and thrusts upon the executive the onerous task of keeping the state solvent or accepting responsibility for the failure to do so.

IV

THE EXECUTIVE BUDGET AS A TOOL OF GUBERNATORIAL LEADERSHIP: 1918-1932

THE EXECUTIVE BUDGET, like the item veto, was introduced into American practice by the leaders of the Confederacy. Although the states quickly incorporated the item veto into their constitutions, it was not until the twentieth century that the proposal that expenditures originate with the executive began to find its way into statutes. The new school of budget reformers held that the veto and item veto as applied to appropriation bills were illogical and ineffective because they reversed the relationship which should exist between the governor and the legislature. One authority stated that instead of the executive's initiating the budget and appropriations, subject to revision by the legislature, which supposedly controlled the purse, the opposite situation prevailed.¹ To correct this situation, a budget reform movement swept the states.

More and more executive leadership is becoming the fixed pattern of governmental action, and greater budgetary authority for the executive is a part of this development.² The executive's authority is limited to preparation of a financial plan for the consideration of the legislature. In most of the states the legislature is then free to deal with the budget as it sees fit; it may accept it in whole or in part, disregard it, increase, decrease, add, or omit items of expenditure, and change any recommendations as to the state's revenue system.

The reform wave brought executive budgets to more than three-fourths of the states as far as budget preparation is concerned. Although writers on finance and government, almost without exception, have endorsed the executive budget as the type of budget best calculated to achieve economy in state ad-

¹ Roger H. Wells, "The Item Veto and State Budget Reform," *Amer. Pol. Sci. Rev.*, XVIII (1924): 785-86.

² A. E. Buck, *The Budget in Governments of Today* (New York: The Macmillan Co., 1934), p. 306.

ministration, other state officials have been charged with formulating the initial budget plan. The "administrative board type" is one of the other forms under which a group of administrative officers, usually including the governor or some of his appointees, is made responsible for preparing the budget. The reason for this arrangement is in order to include other independent administrative officers with the governor in the formation of the budget as a means of restricting his influence on financial planning. Another type is designated as the "administrative-legislative board," composed of administrative officers, including the governor, and legislators. The purpose in this instance is to bring the legislative body into the initiating stage of budgetary procedure.³

For many years Michigan operated under the administrative board type of budget, but in 1931 the budget system was placed under the executive's complete control. Of the several types, these two systems are most plainly calculated to thrust the governor into a position of leadership in the shaping of the state's fiscal policy. An investigation of the operation of the budget system is of great importance in a study of the role of the Michigan executive in the appropriation process.

THE MOVEMENT FOR A BUDGET SYSTEM IN MICHIGAN

The general movement to embody a form of budgetary procedure in the laws of the states may be said to have begun in 1913.⁴ Two years later Governor Woodbridge N. Ferris described the budget system to the Michigan legislature and recommended that an interim committee study the system and recommend a suitable plan to a subsequent legislature.⁵ Inas-

³ J. Wilner Sundelson, *Budgetary Methods in National and State Governments*, Special Rept. New York State Tax Comm., No. 14 (1938): 301 ff. Arkansas is the only state which leaves the preparation of the budget to the legislature itself.

⁴ A. E. Buck, "The Present Status of the Executive Budget in State Governments," *Nat. Municipal Rev.*, VIII (1919): 422 ff.

⁵ G. N. Fuller, ed., *Messages of the Governors* (Lansing: Mich. Hist. Comm., 1927), IV: 667.

much as no study was made, Governor Albert E. Sleeper in 1917 likewise urged that a commission of three or five men be appointed to investigate this important subject and prepare a report to be used as the basis of legislation to be enacted at the 1917 session.⁶ The same governor transmitted to the legislature a letter from the veteran Auditor-general O. B. Fuller in which the latter explained that Michigan had outgrown the system of appropriating money which had been adopted in the infancy of the state. He urged the adoption of a budget system to place the method of appropriating state funds on a business-like basis.⁷ The legislature before adjournment authorized the governor to appoint a Budget Commission of Inquiry to investigate and report upon the general financial system of the state in regard to the appropriation of moneys, and to investigate, report upon, and recommend legislation necessary to establish a budget system.⁸

The need for a budget system was brought out by the description of the then existing system of appropriating public revenues:

As a general rule, appropriation bills, under our present system, are prepared by the departments, institutions and offices requesting money and, in the case of institutions, are usually introduced in the legislature by the members representing the localities in which the institutions are located. Because of local pride and the possibility of added political prestige, it is only reasonable to assume that these members of the legislature will make every effort to get as much money as possible for their respective institutions, to the extent of the amounts requested in the appropriation bills, and this irrespective of whether they have ascertained, with a reasonable degree of certainty, that the amounts requested are actually needed and are es-

⁶ *Ibid.*, p. 710.

⁷ *Ibid.*, p. 716. O. B. Fuller was first elected auditor-general in 1908 and was re-elected twelve times before he left the office for good in 1933.

⁸ *P. A.*, 1917, No. 193. Governor Sleeper appointed J. W. O'Brien of Grand Haven, Charles D. Thompson of Bad Axe, Dana H. Hinkley of Petoskey, O. C. Tompkins of Lansing, and George Lord of Detroit to the commission. The governor was chairman, and the auditor-general an ex officio member. Lord was elected secretary and Thompson special investigator.

sential to the public good. Their knowledge of the financial needs is usually based on what the executive heads of the institutions tell them rather than on personal investigation.

Appropriation bills, upon their introduction, are first referred to the standing committees on the institutions, or other state activities, they cover . . . the committee usually visits the institution and, in a sort of a perfunctory way, endeavors to find out something as to what the financial needs of the institution are. . . . Furthermore, the members of the committee are not usually men who have made a study of state governmental business and financial affairs. It should not be expected, therefore, that they gain very much knowledge as to actual conditions, other than what they are told, by a few hours' visitation.

After describing the committee process, the commission referred to the lack of adequate informaton for a full consideration of appropriation bills on the floor of the chambers, as follows:

The reason for the apparent "smooth sailing" of appropriation bills after being reported out by the finance committees is that the members of the legislature, other than the members of the committees to whom appropriation bills are referred, are not furnished with any information as to the actual necessity for the amounts of money called for, neither are they afforded the adequate means for consideration of appropriation items, essential to effective criticism and to an intelligent vote thereon. Furthermore, under the present system, the general public who is called upon to "foot the bill" gets no information relative to the financial program until the closing days of the session and then about all the information the public gets is that a certain amount of money was appropriated for certain activities.

. . . Few of those measures are given sufficient publicity as to their necessity, previous to their enactment, and the discussions concerning them are usually heard behind the closed doors of the committee room, wherein are generally found only those advocates directly interested in getting all the money they can for the particular activities of the state government they represent.⁹

In contrast to this unsatisfactory condition, the Commission

⁹ *Report of the Michigan Budget Commission of Inquiry, 1918* (Fort Wayne, Ind., 1918), pp. 4-5.

of Inquiry gave some indication of the type of budgetary system it advocated for appropriating money:

Under the budget system, money will be appropriated by definite and comprehensible segregation according to governmental functions and objects of expenditures. Appropriations will not be made largely upon guesswork, as at present, but upon the actual needs of each activity of the government determined by expert investigation, followed by carefully prepared comparative data in relation thereto.

The plan is to require each institution, department and office of the state government to furnish on appropriate forms, which will be sent to them, a detailed estimate of financial needs for the ensuing biennial fiscal period, together with anticipated income; also, for comparative purposes, a detailed statement of past expenditures and income, and of its present financial condition. These estimates of financial needs will be subject to revision by a centralized authority, and, before final action is taken, there will be public hearings in regard to them. Following final revision, a statement, or budget, will be prepared showing the estimated amounts required for the conduct of the state government in all its departments, institutions, boards, commissions and offices for each year of the biennial fiscal period next ensuing; . . .¹⁰

The revenue side of the budget was then considered, and its importance was stressed. In addition, the commission emphasized that the budget should be a comprehensive document giving a complete and understandable statement of the actual financial needs of the state government in all of its activities, and of its current financial condition. These men were confident that the effect of their proposed reforms "would be to prevent waste and extravagance, to stop unnecessary expenditures, to give the fullest publicity to all our fiscal activities . . . and to substitute order for disorder in the manner of financing our state government."

The bill incorporating the ideas of the Commission of Inquiry was introduced by Senator De Land. In the upper house the members broadened the powers of the proposed budget commission, and the minor amendments offered in the House were

¹⁰ *Ibid.*, p. 7.

incorporated in the act sent to Governor Sleeper on April 9, 1919.¹¹ This law provided for a fairly comprehensive budget plan to be administered by a budget commission consisting of the governor, the auditor-general, and a budget director who was to be appointed by the governor for a two-year term.¹² Although this budget system was not the executive type in the accepted sense of the term, the governor could easily dominate the three-man commission. Senator Scully argued that the budget director's job should be removed from politics by making the term four, instead of two, years. Senator De Land, spokesman for the bill, insisted that inasmuch as the governor would have to be responsible for the entire budget system during his term of office, it would be unfair to any governor to load him down with a director who might not work in harmony with the administration and over whom the governor would have no control.¹³ Fortunately for executive responsibility the De Land view prevailed.

In the act as finally passed by the legislature, a generous grant of power was made to the Budget Commission. The law authorized the commission to send appropriate forms to the many state agencies to obtain such information relating to their past expenditures and income, present financial conditions, and to their financial needs for the ensuing biennial fiscal period, together with anticipated income, as was needed to construct the budget.¹⁴ The commission was given full powers to conduct investigations into state departments and institutions and to examine bids, contracts, plans, specifications, blueprints, records, invoices, books, accounts, and correspondence of the state agencies.¹⁵

All information had to be gathered by December 1, for under the law hearings were then to be held and materials prepared for submission of the budget document to the legislature within

¹¹ *Mich. Senate Journ.* 1919, II: 1042.

¹² *P. A.*, 1919, No. 98.

¹³ *The Detroit Free Press*, February 6, 1919, p. 13.

¹⁴ *P. A.*, 1919, No. 98, sec. 4.

¹⁵ *Ibid.*, sec. 7.

ten days after the convening of that body. The inconvenience of these dates in the operation of an effective budget system should be emphasized. The governor of Michigan is elected in November of the even years and is inaugurated the following January 1. Unless the incumbent is re-elected—and this has not happened in recent years—the governor who prepares the budget in December is not the chief executive who must present a financial plan to the legislature early in January.

THE FAILURE OF THE FIRST BUDGET LAW

The Commission of Inquiry also presented to the 1919 legislature a budget to be enacted for the ensuing biennium. This first attempt at scientific budgeting was the work of Special Investigator Charles D. Thompson.¹⁶ Although the recommended appropriations were approved in the Senate, so much opposition developed in the House that the question was raised: "Well, after all, why a budget commission?" When the Budget Commission's report reached the legislature and the recommendations of the special investigator were presented, it was expected that the ways and means committee would act quickly on the appropriation bills. The committee, however, announced that through subcommittees it would look over the institutions and make its own determination as to how much the legislature should appropriate. One member of the House voiced the general impatience of the legislature:

Why should we legalize a budget commission with its necessary assistants, costing at least \$15,000 to \$17,000 a year when nobody in authority is going to pay any attention to its recommendations? If the average ways and means committee of the future isn't going to pay any more attention to its findings than the present one, I guess we had better forget about budgets.¹⁷

In that year the agencies of the state requested more than \$45 million; the Budget Commission of Inquiry recommended appropriations totaling \$26,678,170, and the legislature appropriated around \$25 million.

¹⁶ *Mich. House Journ.*, 1919, I: 105-7.

¹⁷ *The Detroit News*, February 15, 1919, p. 13.

The budget act called for the immediate appointment of a budget director,¹⁸ but no one was named until eight months later because Governor Sleeper maintained that it was difficult to find a man qualified for the job who would be willing to accept the \$4,000 salary.¹⁹ G. G. Scott, the first director, resigned the post after holding it only two weeks. He was succeeded in December, 1919, by C. R. Foote who attempted to make the budget law something more than an ornament to the statute books. He found general misunderstanding of what was meant by a budget system, and almost universal opposition to the system and to himself on the part of the state officials and institution heads. Most of his time was necessarily spent in trying to develop support for the budget system and in educating state officials as to its purposes.²⁰ Surprisingly enough, his recommendations were not supported by the Sleeper administration.

The Budget Commission, at a conference attended by Governor Sleeper, Auditor-general Fuller, Governor-elect Groesbeck, and Budget Director Foote, concluded that its function was merely to furnish the legislature with information regarding the work and expenses of the various agencies of state government, rather than to advise the legislature as to the specific appropriation it should make. Following this hands-off policy, the commission presented to the legislature, at the opening of the session, copies of the budget requests of the eighty-seven departments, institutions, boards, and commissions which totaled \$57,956,547. Members of the commission denied they were endeavoring to shift any of their responsibility to the legislature. For some unexplained reason, Governor Sleeper and Mr. Fuller said they had not had sufficient opportunity to study the financial needs of the institutions to enable them to make specific recommendations. Groesbeck's attitude was that he could not sign a report urging appropriations which a more thorough study might convince him to be erroneous.²¹

¹⁸ For a list of Michigan's budget directors and the governors under whom they served, see Appendix A, Table VII.

¹⁹ *The Detroit News*, November 30, 1919, p. 5.

²⁰ *The Detroit Free Press*, March 8, 1921, p. 3.

²¹ *The Detroit News*, December 17, 1920, p. 3.

Governor Sleeper may be given some credit for the creation of a budget system in Michigan, but the facts reveal that he failed to support the system once it was set up and he did not use the budget as a tool to shape appropriations to an executive pattern. A Grand Rapids editor stated the issue:

In plain English the new budget commission has failed to function. . . . The administration has displayed only languid interest in budget reform . . . those who should have assisted him [the budget director] failed in cooperation. Governor Groesbeck has it in his power to make the state budget idea something more than a phantom law.²²

THE BUDGET ACT OF 1921

When Governor Groesbeck took office, he presented the challenge in his first message to the legislature in January, 1921:

Undoubtedly, any budget system which accomplishes the purpose of saving money and furnishing the public with knowledge of just how funds derived from taxation are spent is commendable, should be continued and if possible improved upon.

A glance at our present law will disclose that it falls short of accomplishing the things most essential to these purposes. Much of the commission's work is purely clerical and consists of compiling data furnished by department heads. The remainder of its duties are almost wholly advisory. It has no power after making the examinations detailed in Section 7, to remedy such abuses that may be found to exist in the conduct of a single department. Neither is there any such power lodged elsewhere except such as the executives may see fit to exercise under the constitution.

The make up of the commission is not the most desirable. The duty of preparing the budget should be lodged with the Administrative Board . . . , and when completed should constitute something more than a series of recommendations. The budget should not be revised upwards, except for cause shown in specific items. This should clarify the situation immensely and relieve the Legislature of a mass of detailed work connected with appropriations.²³

Groesbeck did not favor making the formulation of the budget

²² John Fitzgibbon reprinted this editorial in his column in *The Detroit News*, January 22, 1921, p. 22.

²³ Fuller, *op. cit.*, p. 782.

the sole responsibility of the chief executive, but he was in favor of limiting the legislature's power to increase recommended appropriations. No such far-reaching extension to the Michigan law was made, and there has been no subsequent attempt to prescribe what action may be taken after the budget has been transmitted to the legislature.²⁴

The powers and duties vested by law in the state budget commission and in the budget director in the 1919 law were transferred in the 1921 Budget Act to the State Administrative Board, as suggested by the governor.²⁵ The budget director's office was abolished by this act. Nevertheless, the manifold duties and multiple character of the new board made it necessary that an active working budget officer be retained to do the actual work thrust upon the State Administrative Board. Therefore, a budget director was appointed in accordance with the provision that "said Board . . . may . . . employ and fix the compensation of such agents and assistants as may be necessary to carry out any of the duties imposed by this act." It might be pointed out that the administrative board is an *ex officio* body of elective state officers;²⁶ although the governor is chairman and had for a time an absolute veto over its actions, his relationship to the budget director under the new law was not as close as under the 1919 act.

GROESBECK AND THE BUDGET

Under Governor Groesbeck the board was pliant, and the complaint was constantly made that the board was autocrati-

²⁴ According to Sundelson (*op. cit.*) the only states that have effective restrictions on the legislature's changing executive budget proposals appear to be Maryland (*Md. Const.*, Art. III, sec. 52), Nevada (*Nevada Stat.* 1919, c. 45), New York (*N. Y. Const.*, Art. IV-A, sec. 3), and West Virginia (*W. Virginia Const.*, Art. VI, sec. 51, subsec. B, part 3). Nevada is the only state in this group which restricts modifications in the executive budget by statutory provision.

²⁵ *P. A.*, 1921, No. 2, secs. 4 and 8; *C. L.*, 1929, sec. 204.

²⁶ For a study of this board see George C. S. Benson and Edward H. Litchfield, "The State Administrative Board in Michigan," *Mich. Gov. Studies, Univ. Mich. Bur. Govt.*, No. 1 (1938).

cally dominated by the governor.²⁷ Whether he was an autocrat is a matter of definition, but it is known that his strong personality affected many aspects of the state's business—including the budget.

Henry Croll, a former legislator who was budget director, apparently looked to the governor alone for direction in construction of the budget. His conception of the office gives ample evidence of the chief executive's complete dominance in this sphere:

I would say that to Governor Groesbeck belongs all the credit for the excellent policy that was pursued by the administration during his incumbency. He planned the policies and I did my best to co-operate with him and make his ideas and plans go through. During the making of the budget I was in constant touch with him and kept him advised as to our progress and where it was leading us.²⁸

Groesbeck was in sympathy with the budget idea and proposed to apply the budget system to the University of Michigan and Michigan State College, but he did not install a model budget system. Mr. Croll describes some of the shortcomings of the budget office at that time:

While acting as budget director I also had a number of other assignments from the Governor—supervising State Force Account, Road and Bridge Construction—sales manager for the Chelsea Cement Plant—buyer of all road materials and equipment, and numerous other duties. Necessarily, I did not have the time to follow through the expenditures of our budget, but with the help of Miss Grace Murray, who was my very able assistant, we were able to do some little supervising. . . . I think the budget director should have no other duties and then could visit the institutions more often and supervise the expenditures, thereby making a considerable saving.

It is evident that the budget system did not loom large in Groesbeck's scheme of things, but it is interesting to note that there was a consciousness of the need for fiscal management, and overhead management was strengthened by an administra-

²⁷ *Ibid.*, pp. 31-33.

²⁸ Letter to the author, January 27, 1941.

tive audit of expenditures which was attempted even though no legal basis for it existed.²⁹

Although Groesbeck was credited with submitting to the legislature the first business budget showing the collective needs of every state institution, he failed to recognize that a "budget" means not only a systematic plan of proposed expenditures but an estimate of revenues for the same period. For calculations as to probable revenues during this period, the legislators turned to Auditor-general O. B. Fuller. On the other hand, the well-accepted feature of the executive budget principle, that the governor's revised estimates for the legislature are to be adhered to by the spending agencies, was realized. Groesbeck has spoken of this accomplishment:

We stopped the old and bad practice of State employees and heads of departments, etc. besieging and barraging the Legislature with reference to their requests. In fact, they were forbidden from pulling wires, log rolling, etc., etc. They were informed and readily acquiesced in the new order which required them to submit all their troubles and headaches to us, which they did. These were all given painstaking and kindly consideration so that when the Legislature acted everyone was in agreement. There was no dispute or bad feeling, the Legislature's job was lightened and the State's interests protected.³⁰

Under these conditions, and in so far as the budget was comprehensive, the executive budget gave the governor control over the operations of governmental agencies and strengthened his authority as an administrator. What is perhaps more important, it placed upon the governor the responsibility for the expansion and contraction of services.

GREEN STRENGTHENS THE BUDGET PROCESS

Budget Director Croll resigned when Governor Fred Green took office in 1927. A budget which Croll had prepared under the

²⁹ It might be added that except for the biennia when Fitzgerald and Murphy were given financial control to establish an equilibrium between appropriations and revenues, the governors of Michigan have never had legal authority to exercise continuous control of expenditures. See p. 68.

³⁰ Letter to the author, November 1, 1940.

direction of Governor Groesbeck listed requests, but made no recommendations thereon. The legislature, bereft of the little guidance the budget had provided up to that time, reverted to the old appropriating system which had been condemned by the Commission of Inquiry in 1918. It proceeded to appropriate freely and to create Governor Green's reputation as a spend-thrift. In the 1927 session the appropriation bills for necessary purposes, such as operating a state institution, customarily included a tax clause at the end of the bill. There were a great many appropriations for desirable things that were not necessary, and were often passed to please a special group. No provision was contained in these bills for levying taxes to finance the appropriation. In effect, the legislature as much as said: "If you find the money for this appropriation, here is your authority for spending it as specified."³¹

Green described his predicament to G. R. Thompson, whom he had chosen for budget director: "I wouldn't have wished on my worst political enemy the mess that this Legislature left me with; I intend to give Michigan a thorough budget system."³² It was Green's intention to establish a budget system comparable to the one recommended by the Budget Commission of Inquiry in 1918.³³

Thompson was instructed to spend his whole time studying the governmental departments and institutions and learning their needs. He was to have all of the information concerning routine appropriations and other expenditures "on the tip of his tongue." Howard Lawrence, the governor's secretary, relates that the governor consulted Thompson on all budgetary matters, but he felt that in discharging his responsibility he should maintain a close relationship with the department heads and others who spent the money.

³¹ Letter to the author from G. R. Thompson, December 2, 1940. Thompson had made an enviable record as an engineer for the city of Detroit and was appointed budget director in April, 1927.

³² Related to the author by Mr. Thompson in a personal interview.

³³ No estimate of revenues had been made in budgets up to this time, and too often the budgets had been mere compilations of requests.

In August, 1928, the requests from the state spending agencies were submitted. These were reviewed and cut as much as possible at the time they were presented. The compilation of these requests constituted the first rough draft of the proposed budget. Thompson recalled that Governor Green devoted altogether about three working days to the job of reviewing the recommendations of the budget director; he invariably sought the reason for suggested increases and cut them down when the reasons were not satisfactory to him. The budget document which was placed in the hands of the legislature early in the session included the requests and recommended appropriations for the various agencies, comparative figures from preceding fiscal years, and anticipated revenues and other sources of income. Budgets are not to be judged by their bulk alone, but this 437-page document presented to the legislature in 1929 was much superior to its 94-page predecessor. The budget director and his staff had the responsibility for charting the budget through the legislature, according to Green's secretary who explained:

From that point on, of course, the Legislature was taken into consideration in all matters of appropriation. To a great extent conclusions were reached relative to the possibilities of each of the spending agencies. . . . In all of this the Budget Director and the staff working with him handled the details and as many of the interviews and committee hearings as possible. With the exception of major items it was necessary, of course, for the Governor to work through these channels.³⁴

A single appropriation bill which represented the governor's budget recommendations was successfully pushed through both houses.

Thompson, who served as budget director for nine years, was of the opinion that Governor Green more completely understood and controlled the appropriations by means of the budget than any other governor with whom he worked. The experience gained under the haphazard appropriation process of his first

³⁴ Letter to the author from H. C. Lawrence, January 30, 1941.

term was not lost upon the governor. His reaction encouraged him to make the most of the budgetary system provided by the laws of Michigan. Unlike his successors, Green was particularly fortunate in having a second term and thus was able to formulate his own budget and recommend it to the legislature in the measured manner anticipated by the law. It is a marked weakness in the statute that only a second-term governor can formulate a financial plan and present it to the legislature. This defect was particularly apparent in the decade of the nineteen-thirties, when no governor enjoyed a consecutive second term.

BRUCKER'S INTEREST IN BUDGETARY DETAIL

In speaking of the process of formulation of the budget Governor Brucker emphasized that a great deal of control can be exercised by the governor (or governor-elect) because the budget director can alter requests to conform to the governor's wishes in the proposed budget, which is printed for the convenience of the legislature. He explained that at this stage the governor can determine whether he wants the budget to start off at a high, medium, or low figure and can estimate the strategic value of any item or the whole amount involved.³⁵ Brucker made the most of this opportunity; according to his budget director, Thompson: "Governor Brucker took an extremely keen interest in all details of State finances, and personally went over every item of appropriation in the budget."³⁶ He made a greater effort to adjust the details of the budget to his general ideas on finance than any other governor. There is some question whether the governor should personally concern himself with every detail of the budget or whether he should follow Frank Murphy's philosophy on the attitude of the governor toward the details of his job. In relation to this question, Murphy stated: "Personalization, on the part of the governor, is not attainable in the broad sphere which he must deal with. Indeed, over personalization would probably constitute a weak-

³⁵ Letter to the author, November 20, 1940.

³⁶ Letter to the author from G. R. Thompson, December 2, 1940.

ness in the executive."³⁷ Undoubtedly, these men represent the two extreme points of view. Brucker had the lawyer's penchant for details; whereas Murphy was the example of an administrator more interested in principles and policies than in details of administration.

Brucker was the only governor in the decade of the nineteen-thirties who followed a predecessor of his own party, but he found, even then, that acceptance of his inherited budget was impossible. When Budget Director Thompson presented the tentative budget to Governor Brucker, the governor promised a resolute assault upon it:

You can say for me that there will be no tax of \$36,000,000 . . . or anything in the vicinity if I have anything to say about it. The budget was prepared during the preceding administration and I have had no opportunity to go over it. But we are starting into it right away and something will have to give.³⁸

After futile efforts to make former Governor Fred Green's budget conform to his own ideas, Brucker threw up his hands and instructed Thompson to prepare a wholly new one.³⁹ During the month of January, 1931, there were many times that the budget director went to the governor's home with the facts and figures, and together they worked until after midnight on revision of the budget.⁴⁰ Early in February, Brucker's ideas were incorporated in an appropriation bill and introduced in the legislature.⁴¹ The revised expenditure program met resistance from governmental agencies whose services would now be contracted for lack of funds.⁴² The legislative junkets to various institutions which the administration forces held should be "cut to the minimum . . . in view of the call for economy" were stoutly defended by the speaker:

³⁷ Letter to the author, February 4, 1941.

³⁸ *The Detroit News*, January 13, 1931, p. 6.

³⁹ *Ibid.*, January 17, 1931, p. 7.

⁴⁰ These trips were described by the budget director to the author in a personal interview.

⁴¹ *The Detroit News*, January 31, 1931, p. 3.

⁴² See pp. 140-41.

How can the members of the Legislature study the actual needs of the institutions without visiting them? Don't think for a minute we are going to take the word of the institution heads. The chief function of the Legislature is to control appropriations. Do away with this function and you might as well abolish the Legislature and let the administrative board handle the whole business.⁴³

With this blessing by Speaker Ming, the legislators, whose chief qualification for these inspectorial trips, according to one editor, was that they happened to grab some coveted committee appointment, went forth to give the institution the "once over." Nevertheless, Brucker's revised budget was followed to the extent that only \$85 million was appropriated, whereas Green's rejected budget had called for \$96 million. The influence that Governor Brucker was able to bring to bear on appropriations through budget revision was largely due to his own persistence and the full co-operation of a sympathetic budget director. Together they overcame the awkwardness of the Michigan budget law.

AN ORPHAN BUDGET

Thompson believed that he worked under two types of governors. Green, for example, felt that he was held responsible by the people for the expenditures, and he therefore made every effort to control appropriations. On the other hand, Comstock felt that the legislature was primarily responsible for monetary outlay and left the problem in their hands. Governor Comstock describes his part in the budget process as follows:

Shortly after I took office the Budget Director, Mr. George Thompson, submitted to me for executive approval, to be submitted to the Ways and Means Committee of the House of Representatives, a proposed budget for the fiscal years July 1st, 1933 to June 30, 1935. It was necessarily a voluminous document. I refused to approve it for the reason that it was utterly impossible for me to check it properly. There was no reflection on the ability of the Governor who preceded me, Mr. Brucker, or on the Budget Director, Mr. Thompson. I did, however, inform the Chairman of the Ways and Means Committee

⁴³ *The Detroit News*, January 15, 1931, p. 4.

of the House of my refusal, and asked him to see that every item was properly investigated and checked.

Comstock credits the balanced budget that the legislature enacted to the splendid work of the two ranking members of each party on the ways and means committee.⁴⁴

The budget prepared under the supervision of Governor Brucker was not abandoned altogether, but Budget Director Thompson described it accurately as an orphan child. Although Comstock decided to let the legislature write its own budget, he said: "I'll just give them Mr. Thompson's budget to use as a sort of framework and let them go ahead."⁴⁵ In such a circumstance the budget served as a much needed guide to the cost of operating state departments, boards, commissions, and institutions. Mr. Thompson maintained that this group of items was "pretty well fixed by price levels and unchangeable functions to be performed." Although special appropriations in large amounts of money may be affected by administrative policy, these standard items, once carefully calculated and included in the budget, can be changed very little and are closely followed by legislators.⁴⁶

Governor Comstock's attitude toward the budget may have been due in part to his adherence to Jeffersonian principles, but the reconstruction of the tax structure and the reorganization of banks left him little time for anything else. At any rate, when these problems were solved, formulation of a new budget received attention. Comstock recounted that no sooner was the 1933-35 budget adopted than he met with the budget director and other individual employees of the State Administrative Board to start work on the 1935-37 budget. They defined policies to be used in recommendations for appropriations for each depart-

⁴⁴ Letter to the author, December 2, 1940.

⁴⁵ *The Detroit News*, January 12, 1933, p. 29.

⁴⁶ Letter to the author from Mr. Thompson, December 2, 1940. Mr. Thompson made this same point at a later time in a discussion with the writer. On the other hand, Miss Grace Murray, Administrative Assistant in the Budget Office, was of the opinion that the attitude of an administration often might bring changes in items such as equipment and materials.

ment, board, commission, or other state activity separately. While the budget was being compiled, Comstock was kept informed of any unusual problems or disputed items by the budget director. Not realizing how closely both Green and Brucker had also followed the progress, he stated: "Whether other governors, prior or subsequent to me, used this practice I do not know. But directly the governor can, if he so desires, exert a tremendous influence on budget totals."⁴⁷

It must be said that the achievements realized during the first fifteen years under a budget system in Michigan were disappointing. It was not until the system was ten years old, during the Green administration, that the possibilities of the budget as a means of gubernatorial leadership were fully realized. Before the pattern laid down by Governor Green in 1929 had time to solidify into established practice, Governor Comstock relinquished the executive initiative in financial legislation to the lawmakers.

⁴⁷ Letter of December 2, 1940.

V

THE EXECUTIVE BUDGET AS A TOOL OF GUBERNATORIAL LEADERSHIP: 1933-1939

AN EXECUTIVE BUDGET LAW

THE READER WILL recall that the budget was originally the responsibility of a budget commission which the chief executive could effectively control.¹ The powers granted in the initial budget act of 1919 were transferred to the State Administrative Board in 1921, where they remained until 1933. In that year the legislature, acting upon a suggestion of Budget Director Thompson, made the budget director responsible to the governor.² To one unfamiliar with the actual operation of the budget system, the significance of this amendment in the study of the governor's relationship to the budget might be overestimated.

Thompson, who was budget director before and after the law was passed, pointed out that Public Act No. 187 made no real change in the relationship between the chief executive and the budget office. Grover C. Dillman confirmed this fact from his experience as a former member of the administrative board:

During the several years prior to 1933, the Budget Director . . . was responsible to the State Administrative Board. However, for all practical purposes the Budget Director reported to and advised with the governor mainly.

I recall that a very considerable amount of time was spent by the Governor with the Budget Director in the preparation of the biennial budget, and examining financial reports of the various state agencies and so on. Certain routine reports were made to the State Administrative Board. I do not recall that these things were gone into in any great detail between the Budget Director and the Board itself.³

Although Michigan's budget system had been of the ad-

¹ *P. A.*, 1919, No. 98.

² *Ibid.*, 1933, No. 187.

³ Letter to the author, February 12, 1941.

ministrative board type, the chief executive controlled the process in actual practice. Thompson declared that he always considered it to be the job of the budget director "to read the 'policy-mind' of the governor and write that policy into the itemized details of the budget." When some large new financial outlay appeared necessary, such as the building program, the governor would direct him to make a study of the amount of money needed and probable revenues that could be found for the new demands. Thompson explained that difficulties were encountered because "often these new demands are sprung after the legislature meets and will throw the proposed budget out of balance." As an example, he cited the Turner school aid bill which appropriated \$2 million for poor school districts in the 1929 session. This same budget director summed up his relations with the State Administrative Board with this remark: "I reported to the governor and only went to the Board out of courtesy and to comply with the formality of the law."⁴

The 1933 statute further sought to adjust the budget process to accommodate the executive and to ensure the latter's control over its preparation. Section 5 directed that the governor-elect should be invited to sit with the budget director when hearings are held in December. He was authorized to examine the estimates and other information in the director's possession and make whatever suggestions and recommendations on these documents he might deem advisable. This provision was designed to acquaint the incoming chief executive with the budget process and to make the document under preparation conform to his views. If this could be accomplished, it was thought there would be no more orphan budgets as there had been in the past.

This innovation did not live up to expectations. Thompson stated that newly elected governors did not take advantage of their opportunity. The reason that this supposed remedy was not effective, he believed, was that the governor-elect was exhausted by his recently completed campaign and was usually taking a much needed rest when the hearings were being held.

⁴ Personal interview, January 31, 1941.

Further, patronage problems and other newly acquired responsibilities combined with the Christmas season made the governor too busy for careful study of proposed expenditures. It must be concluded that this provision, which apparently made it reasonably possible for a new governor to make the force of his views effective in the basic preparation stage, did not, however, solve the problem.

FITZGERALD'S EXPERIENCE UNDER THE 1933 BUDGET ACT

Governor-elect Fitzgerald had little influence on the budget which was prepared during the closing days of the Comstock administration.⁵ In contrast to a total appropriation of only \$48,250,816 in the fiscal year 1934-35, the new budget suggested \$73,376,316 for the forthcoming fiscal year and \$70,317,735 for the second year of the biennium. Governor Fitzgerald declined to accept any responsibility for this budget, for it conflicted sharply with his economy program. About all he could say in its favor was that "it has certain value, for it tells the legislators what our money has been spent for and what it might well be spent for."⁶ The largest increases in the proposed budget, and the ones on which the incumbent Democratic governor and the Republican-elect differed, were under the heading of capital outlay. Another reason for the larger total was the inclusion in the budget of \$12 million for relief, which amount was appropriated in the previous fiscal period, but was not included in the budget document. Certain pay cuts were restored in the budget. It was suspected at the time that these were put in the budget for political purposes. An army of state employees might not feel too friendly to the Republicans if they failed to carry out these restorations.⁷

Fitzgerald summoned Thompson back to his old post as budget director, and the legislature set to work on appropria-

⁵ This budget was prepared by B. J. Abbott, secretary of the State Administrative Board. Thompson had resigned in September, 1933.

⁶ *The Detroit News*, January 12, 1935, p. 1.

⁷ *Ibid.*, January 13, 1935, p. 3.

tions. It soon became apparent to all that if there was any considerable difference between the budget recommendations and the appropriations, the latter were likely to be higher. These examples will serve as illustrations: state departments requested \$7,976,578 per annum, the budget recommended \$6,169,798 and they received \$8,684,960; state boards asked for \$182,566, \$118,197 was recommended, and \$184,800 was appropriated.⁸ The emergency relief appropriation did, however, reflect a difference in policy of the two administrations. Whereas Comstock's budget called for \$12 million for this purpose, only \$9 million was appropriated under Fitzgerald.

Thompson spoke with respect of Fitzgerald's grasp of financial matters. He thought that Fitzgerald's long career in various state departments and especially his experience as business manager of the State Highway Department enabled him to undertake leadership in fiscal policy. It seems fair to assume that it was this same governor whom he had in mind when he wrote: "In the case of a man elected to the office of the governor who has experience on the administrative board, my experience has been that they take a very active part in the formulation of the budget and have a general policy established as to State finances as part of their legislative program."⁹

MURPHY AND A NEW BUDGET DIRECTOR

Unfortunately, Fitzgerald did not have the opportunity to put through the legislature the budget which had been drawn up under his direction in 1936. When the hearings on the budget were held in December of that year, he invited the successful candidate, Frank Murphy, to participate in the budget hearings, but the new governor failed to avail himself of this opportunity. Murphy was in Palm Beach and sent this telegram: "I have designated G. Donald Kennedy to gather certain information for me, chiefly fiscal, and would appreciate your cooperation with him."¹⁰

⁸ *P. A.*, 1935, No. 257.

⁹ Letter to the author, December 2, 1940.

¹⁰ *The Detroit News*, November 24, 1936, p. 12.

Thompson continued to serve as budget director until Harld D. Smith replaced him on May 2, 1937. By that date the appropriation process was completely out of control. While Governor Murphy was occupied with labor disputes, the House ways and means committee and the Senate finance committee made very large increases in the proposed budget. Special appropriation bills were given prior consideration and Senator Palmer's remark on the Weadock-Dunkel bill designed to divert \$8 to \$10 million of sales tax revenue to highway construction is revealing. He complained that such bills should remain in committee until such time as the Senate could have a complete understanding of the state's financial picture for the next two years. He voiced the conscientious legislator's need for the comparative information on both revenues and expenditures that a single budget bill provides:

Let's know how much money we are going to have and how much money each institution, board, and department is going to require before we begin voting on these bills. We should have some idea of where we are headed. We must consider the financial problem in its entirety.¹¹

Early in June, Governor Murphy gave the legislature a list of appropriations which he thought were excessive, but his warning went unheeded. The Senate debated the futility of passing appropriation bills when no money was available, but it voted the same day for annual appropriations of \$600,000 for snow removal in northern Michigan and \$500,000 for aid to public libraries. Neither of these items was in the budget. Senator George P. McCallum criticized the finance committee for failing to provide adequate direction to the Senate in its handling of appropriation bills: "They should put all these bills down side by side so they can tell something about where we are going instead of kicking them out here one at a time with recommendations that they be passed."¹²

When adjournment called a halt to this spending spree, ap-

¹¹ *Ibid.*, April 28, 1937, p. 44.

¹² *Ibid.*

propriations stood nearly \$25 million above the budget director's recommendation. Despite Michigan's constitutional provision requiring "an annual tax sufficient with other resources to pay the estimated expenses of the state government," the probable revenues were recognized to be millions less than the amounts appropriated. The legislature could not honestly expect state officials to finance these outlays by borrowing because of the \$250,000 constitutional debt limit on state borrowing.¹³ The job of stretching income to meet out-go was passed on to Governor Murphy and his budget director. Their exercise of this power to reduce appropriations has already been described.¹⁴

Murphy appointed the one budget director "whose previous work trained him for such a position."¹⁵ Smith, as director of the Michigan Municipal League, had aided Murphy in the solution of serious financial problems which the latter faced during his first term as mayor of Detroit.¹⁶ As governor and budget director, these same two men worked intimately on the solution of even more serious but similar problems. The latch key was always out for Smith, and he conferred with the governor at his home and at his office with equal freedom. Murphy himself wrote: "The governor, in order to effectuate his policies, must multiply his leadership through use of officials designated by him (in this case the budget director) who share his viewpoint, who are continually in touch with him, and who are capable of executing his wishes."¹⁷

When Smith resigned as budget director to accept the same position in the Federal Government, he was credited with installing the first effective budget system in Michigan.¹⁸ In accordance with Smith's concept of the proper function of the budget office, the staff was considerably enlarged by the addition of

¹³ *Mich. Constitution*, 1908, Art. X, sec. 2 and sec. 10.

¹⁴ See p. 71.

¹⁵ G. S. Benson and E. H. Litchfield, "The State Administrative Board in Michigan," *Mich. Gov. Studies, Univ. Mich. Bur. Govt.*, No. 1 (1938): 64. *igan*," *Mich. Gov. Studies, Univ. Mich. Bur. Govt.*, No. 1 (1938): 64.

¹⁶ *The Detroit News*, March 6, 1939, p. 1.

¹⁷ Letter to the author, February 4, 1941.

¹⁸ *The Detroit News*, March 6, 1939, p. 1.

budget examiners and assistants. He was of the opinion that cutting expenses in the budget office for the sake of example was being penny wise and pound foolish. It has been pointed out that for the biennium 1937-39 the governor was empowered to make reductions in allotments deemed necessary to keep the total expenditures in balance with revenues available. This power, exercised through the budget director, gave adequate authority for effective budgetary control, and Smith's execution of the budget and expansion of the budget office established his reputation. He did not serve as director during an entire session either in 1937 or 1939, and the budget he prepared for the 1939 legislature made no recommendations.

FITZGERALD-DICKINSON BUDGET

When the legislature met in January, 1939, a budget compiled in the regular budget form but "without recommendation" was submitted over the signature of Governor Murphy. These figures were merely a compilation of requests, and there was a fantastic spread between income and requested appropriations—\$50,673,644 for the first year and \$48,235,762 for the second year of the biennium.¹⁹ During the campaign Fitzgerald had charged Murphy with extravagance and running the state into debt; Murphy had contended that the deficit was due to necessary deficiency appropriations inherited from Fitzgerald's first term. It was not surprising that Fitzgerald condemned the compilation of requests that Murphy transmitted to the legislature and, for political purposes, advertised it as a proposed executive budget, which it did not purport to be. In due time Fitzgerald announced he would submit his own budget to the legislature and that it would keep expenditures within income. "This is no reflection on Governor Murphy," Governor Fitzgerald added, "our ideas on finance differ widely."²⁰

Editorial comment was to the effect that the governor's retention of Harold D. Smith as state budget director evidenced his serious concern with the budgetary problem. Before a new

¹⁹ *Ibid.*, January 3, 1939, p. 1.

²⁰ *Ibid.*, January 23, 1939, p. 4.

budget was drafted, however, former Budget Director Thompson was summoned back to Lansing to collaborate with Smith in the preparation of a report the governor wanted on the exact condition of the state's finances. The figures were to settle the argument which raged through the fall campaign and in which estimates differed widely. It was at this juncture of events that Smith was appointed as Director of the Federal Budget. Before his successor was chosen, Michigan had a new governor because of the untimely death of Frank Fitzgerald.

Smith did not leave the budget office until April 15, 1939, but one of Dickinson's first tasks was to select a successor who might gain some familiarity with the work while Smith was still there to assist him. There were a number of candidates advanced, and the recommendations offered are revealing. Auditor-general Brown urged the promotion of his deputy, Gus T. Hartman. He pointed out that Hartman had been a member of the House ways and means committee for ten years. Brown's statement emphasized the importance of practical experience in contrast to theoretical knowledge:

We do not need a University of Michigan graduate in the budget job and we do not need a graduate of the Michigan Municipal League. We need a man who can be a liaison man between the state agencies and the legislature, a man who knows the agencies and who can give the Governor the correct information.

Louis Schimmel of the Municipal Advisory Council of Michigan was suggested by Superintendent of Public Instruction Eugene B. Elliott. The governor recognized that some of Schimmel's recommendations were "very good." He said, too: "There are some particular considerations . . . in regard to Hartman. We all want the man who we think will do the best job."²¹

Two days later Grover C. Dillman was appointed budget director for the duration of the session. At the time, Dillman was President of Michigan College of Mining and Technology and previously he had been a legislator, state welfare director, and state highway commissioner. Dillman had a special recom-

²¹ *Ibid.*, March 28, 1939, p. 5.

mendation inasmuch as he had been a close friend of the late governor and it was the announced intention of the new administration to carry out Fitzgerald's policies. Dillman revised the expenditure program with this thought in mind. The new budget director later described the predicament the appropriation process was in at the time he came to Lansing:

When I took over the work as Budget Director in April 1939, the legislature having been in session since January 1 of that year, the Ways and Means Committee of the House had not yet been presented with a complete budget recommendation for the biennium.

During the following two weeks hearings were continued at the Budget Office and reports reviewed and a budget presented to the Ways and Means Committee of the House for its consideration.

During the time of the budget being prepared for the legislature I consulted with the Governor a number of times on matters of policy only effecting [*sic*] budget preparation. There was comparatively little discussion of individual budget items. The Governor took the position, I believe, that details of the budget should be left to the Budget officer and to the legislature.²²

Before presentation of his "balanced budget" bill to the legislature, Dillman met with the finance committee. Beforehand, he enunciated his conception of the direction the executive's budget officer should exercise in committees: "I'm just going to talk over the general financial picture. If they agree with *my* recommendations the bill can be made ready for introduction . . . otherwise there will be some postponement."²³ Within a week four bills carrying biennial appropriations that totaled \$204,256,516 were introduced. In accordance with the late governor's pledges of economy, the "balanced budget" program called for a cut in expenditures of approximately \$13 million a year from the level of the previous fiscal period. The appropriation bills, which were prepared as usual by the budget office, were passed substantially as introduced.

Dillman perhaps assumed greater personal responsibility

²² Letter to the author, February 12, 1941.

²³ *The Detroit News*, April 26, 1939, p. 19.

than have most budget directors.²⁴ One individual close to the scene was of the opinion that he was able to accomplish more than a technician in the post could have. Having been a person of some prominence in the party in power and having been a legislator, Dillman could achieve things that Smith might have found more difficult. Institution heads, for example, did not challenge his authority, and the legislature accepted his recommendations without suspicion.²⁵

Governor Dickinson described his part in a letter: "Executive influence on the budget process was to expose leaks, grafts, incapacity, etc. The relation of the budget director to the governor is that he is one given authority to put on the search light."²⁶ It will be pointed out that the governor gave full support to the economy program, and there is every indication that he supported the budget director in his inherited task.²⁷

OFFSET TO EXECUTIVE BUDGETARY INFLUENCE

Although the budget in Michigan is merely a recommendation for appropriations and the legislature is completely free to increase or decrease items, the chief executive influences appropriations insofar as budget recommendations are followed or even serve as a guide to appropriations. In Michigan the executive budget is not primarily a means of controlling the appropriations of the legislature. In contrast to Maryland, where the legislature can only strike out or reduce items in the budget bill, there are no effective restrictions on changing proposals.

²⁴ Mr. Dillman resigned when the 1939 session closed, and Gus T. Hartman, who had previously been recommended, was chosen as his successor. Under Hartman the budget office continued to control expenditures, although the statutory authority for fiscal management expired about the time he came to that office. Budget Director Hartman conceded that his legal power was nil, but held that the state's financial condition warranted his investigation of the wisdom of every expenditure. The budget director was upheld in this activity by Governor Dickinson, and Attorney General Read refused to render an opinion condemning the assumed authority.

²⁵ Interview with individuals in the budget office.

²⁶ Letter to the author, January 29, 1941.

²⁷ See p. 159.

Whether or not it would be advisable to limit the lawmakers' power to alter appropriation bills except to strike out or reduce items, remains a question. It would seem that such a step would result in a more balanced financial program than was passed in 1935 and again in 1937, and it would no longer be necessary for the legislature to shift to the governor the responsibility of maintaining a financial equilibrium. On the other hand, A. E. Buck is of the opinion that the experience of Maryland and West Virginia, whose budget provision was copied from Maryland, has not been satisfactory.²⁸

The budget proposals of the governors in Michigan must rely on some other force than the weight of legal authority if they are to remain unchanged by the legislature. Alterations in recommendations are regularly made by the legislature, usually at the third reading of bills, but they decrease outlays as often as they increase them. The amount of change in either direction has been a small percentage of the total budgeted appropriations. In substance the recommendations have been accepted. Following its survey of Michigan financial administration in 1938 the Public Administration Service of Chicago pointed out that "unquestionably, the budget plan would receive better legislative review and action if a single comprehensive appropriation act was passed."²⁹ The multiplicity of appropriation bills—there were eight passed in 1931, twenty in 1933, sixteen in 1935, and more than thirty in 1937—prevents proper integration of appropriations and resources.³⁰

Additional factors lessen the control that the governor can

²⁸ New York State Constitutional Convention Committee, *Constitutions of the States and United States*, Rept. III (1938): 1836-39.

²⁹ *Report on Financial Administration in the Michigan State Government* (Chicago, 1938), prepared by the Public Administration Service, p. 133.

³⁰ The constitutional amendment setting up an executive budget in California (*Const.*, Art. IV, secs. 16 and 34) might be a lesson for Michigan. The governor is directed to draw up a budget and submit a budget bill to the legislature. Until this budget bill is enacted, neither house may place on final passage any other appropriation bill except emergency bills recommended by the governor, or appropriations to defray salaries and expenses of the senate and assembly.

exert on appropriations through the executive budget. In spite of the fact that Michigan law specifies that the budget is to be comprehensive, this provision has been ineffective.³¹ In practice, certain fiscal items have been omitted from the budget. Sums required to meet old-age pension payments and administrative cost of the old-age pension system were segregated for a time. Sundelson wrote: "Michigan has had longstanding difficulty with respect to extra-budgetary items." It is only recently that the University of Michigan, Michigan State College, and the Agricultural Experiment Station at East Lansing have been brought within the budget system.³² Before the enactment of the 1933 budget law³³ only the expenditures used for routine operation of state institutions, departments, boards, and commissions covering only one quarter of the total disbursements of the state were included in the budget.³⁴ George Thompson, writing in 1934, noted:

The expense and revenues of the following were all, or practically all, omitted from the budget:

a) State Highway Department.

b) Fee-operated division of the Secretary of State's office, Public Utilities Commission, etc. They may be shown in the budget but are not controlled as to a fixed amount of expenditures.

c) Industrial funds for operation of prison industries, known as revolving funds, do not come under budget control or scope and do not close biennially.

d) Fees at the University of Michigan and State College and all detail of other expenditures of any revenues.

e) Trust funds, i.e., primary school fund, closed banks, teachers' retirement fund, etc., where the State Treasury is the depository. Generally speaking, the tendency of any new function of government is to seek exemption from budget control in the act creating it.³⁵

³¹ J. Wilner Sundelson, *Budgetary Methods in National and State Governments, Special Rept. New York State Tax Comm.*, No. 14 (1938): 125.

³² *Ibid.*, pp. 125-26.

³³ *P. A.*, 1933, No. 187.

³⁴ Sundelson, *op. cit.*, p. 126.

³⁵ "Michigan Budget System," unpublished survey prepared for Sundelson by G. D. Thompson, Detroit, 1934, p. 3, quoted by Sundelson, *op. cit.*, p. 126.

The situation remains virtually unaltered to the present time.

Constitutional amendments have excluded two additional types of expenditures from budgetary control. The bulk of the highway funds have long come from allocated tax sources which are not budgeted, and this situation was given constitutional status in 1938. By an initiated constitutional amendment in that year it was voted that all taxes imposed on gasoline and all motor vehicle registration taxes should be allocated for highway purposes.³⁶ In 1939 the State Highway Department spent \$62,096,632. Of this amount, \$118,625 was budgeted and appropriated in the usual way.³⁷ An additional \$5 million was appropriated from general funds not otherwise appropriated.³⁸ It can be seen that the bulk of expenditures for highways was beyond the influence of the chief executive. In 1940 the civil service amendment to the constitution awarded the Civil Service Commission 1 per cent of the total state payroll for the costs of administration.³⁹ Since the commission's powers have been interpreted so that the rate of pay established by them supersedes that set by the legislature, potentially much greater amounts of money may also be removed from budgetary planning. Whether or not this interpretation is the correct one remains to be settled by the courts.⁴⁰

Other funds are included in the budget, but are specifically allocated in their entirety to certain "special beneficiary" activities and are therefore beyond regular budgetary influence of the governor. Such exceptions are the revenues of the game protection fund, the revenues of the aeronautic fund, the pri-

³⁶ *Mich. Constitution*, 1908, Art. X. sec. 22. "... all taxes imposed directly or indirectly upon gasoline and like fuels sold or used to propel motor vehicles upon the highways of this state, and on all motor vehicles registered in this state, shall, after the payment of the necessary expenses of collection thereof, be used exclusively for highway purposes, including the payment of debt thereof, and shall not be diverted nor appropriated for any other purposes; . . ."

³⁷ *P. A.* 1937, No. 254.

³⁸ *Ibid.*, No. 102.

³⁹ *Mich. Constitution*, 1908, Art. VI. sec. 22.

⁴⁰ See pp. 165-66.

mary school interest fund, and the state fair and agricultural fund. These and other earmarked revenues amounted to \$19,325,002 in 1938-39, and \$17,599,134 was appropriated for corresponding activities. In a special message Governor Fitzgerald brought to the attention of the legislature eleven revolving funds "which were not subjected to budgetary control"; but, despite his recommendation "that you pass suitable legislation which will effectively control the receipt and expenditure of all state money," nothing has been done.⁴¹ Further, no definite legislative appropriations are made for special funds, i.e., Secretary of State Branch Office Fund and Auto Theft Fund, and trust funds.

There is a growing possibility that more money will be allocated to special purposes by constitutional amendment or by initiated statute. When the "school people" saw the success which the "good-road" group had in earmarking the proceeds of certain taxes, they were strongly tempted to undertake similar action for the public schools. In another way, the special interest groups constitute a limitation on the governor's influence on the budget. Whereas the governor must take into consideration the manifold needs of the state in the formulation of his budget, these people urge expenditures in their own interests which do not correspond in every instance with the executive's recommendations. Admittedly, the latter's recommendations in Michigan have not been devised by any automatic technique or by any set of scientific principles—if such exist.⁴² However, the harassed budget officials and the politically minded executive have, no doubt, ascertained the justifiable needs more precisely than have the pressure groups. The clientele of the spending agencies have marshaled their forces with some success before the legislative finance committees. For example, in 1939 the budget recommended \$37.5 million for schools. On May 3 hundreds of school teachers and educational leaders packed the Senate chambers and Capitol corridors to

⁴¹ *Mich. House Journ.*, 1935, I, 275-76.

⁴² V. O. Key, Jr., "The Lack of a Budgetary Theory," *Amer. Pol. Sci. Rev.*, XXXIV (1940): 1137 ff.

urge that the state appropriation be at least \$45 million a year.⁴³ Governor Dickinson deprecated this pressure, but the legislature went on to appropriate \$39 million a year; this appropriation was to be increased to the extent of \$2 million if general fund revenues exceeded \$84 million.⁴⁴

The governor's representative before the legislative committees is the budget director; one budget director likened himself to a lobbyist representing the governor.⁴⁵ When the budget director finds that some spending agency or its clientele is lobbying for more funds, the budget officer tries to justify the amount recommended. Governor Dickinson stated it accurately: "I wouldn't just say the budget director is the lobbyist for the governor but rather the agency to reveal the facts to the Ways and Means and Finance Committees."⁴⁶

One competent writer holds that "the spirit of executive budget planning is nullified unless the heads of the spending agencies are denied access to the legislature in demanding increases in the appropriations recommended by the executive."⁴⁷ To a certain extent, the corridor lobbying by state agencies, which it is generally admitted does go on, is justified. The staff of the budget office has never been large enough for it to have someone on hand at all times to defend the recommendations for certain departments and institutions.⁴⁸ Consequently, these agencies have felt they must look out for their own interests. Budget Director Smith, in the last weeks of the 1937 session, was usually to be found in the Administrative Board's room adjacent to the office of the governor, and budget directors in the past have tried to attend legislative hearings in so far as time would permit them to do so.

⁴³ *The Detroit News*, May 3, 1939, p. 17.

⁴⁴ *P. A.*, 1939, No. 902.

⁴⁵ George D. Thompson. Budget Director Hartman felt this description "hit the nail on the head."

⁴⁶ Letter to the author, January 29, 1941.

⁴⁷ Sundelson, *op. cit.*, p. 299.

⁴⁸ For a critique of the budget mechanism, see Benson and Litchfield, *op. cit.*, pp. 63-64, and *Report on the Financial Administration in Michigan State Government*, pp. 67-149.

The executive budget plan in Michigan could be strengthened and could exercise a greater influence on the appropriations if it were accompanied by an explanatory message. Unquestionably, executive budget leadership and legislative and public interest would be heightened by the personal presentation of such a budget message by the governor. Sundelson maintained that it is necessary for those responsible for the budget to make clear their reasoning and their policies.⁴⁹ Michigan's fiscal program is worthy of a sponsor and a presentation by him of his ideas. Michigan governors insert a perfunctory, meaningless statement before the mass of figures which make up the budget document.⁵⁰ If in a message these figures were adequately explained to the general public, the press would devote attention to the budget recommendations, and undoubtedly the governor could thereby cultivate a strong public sentiment for his proposals.

The absence of public and legislative focus upon the governor's fiscal program in addition to the lack of sufficient time for the incoming governor to incorporate his own ideas into the budget, enables a newly elected chief executive to shirk his responsibility of presenting a fiscal program. Governor Comstock's abdication of this responsibility to the legislature will be recalled. This weakness might be overcome by adopting Governor Murphy's suggestion that the statutory filing date of the biennial budget be postponed for six or eight weeks after the inauguration of each incoming governor. This arrangement would give the new governor an opportunity to transmit a budget which would reflect his views, and which, therefore, he would be willing to publicize and to sponsor actively.

The budget system in Michigan, because of its shortcomings in law and operation, has not given the governor the leadership anticipated by its early proponents. On the other hand, the

⁴⁹ Sundelson, *op. cit.*, p. 464.

⁵⁰ Governor Lehman's budget message announced by a streamer headline was printed in full in the *New York Times*, January 28, 1941. It was accompanied by explanatory charts, tables, and graphs, and covered more than two pages.

legislature today is no more prepared to assume intelligent direction of appropriations than in 1918, when it was criticized by the Commission of Inquiry for this very reason. Meanwhile, the extension of state services necessitating ever greater appropriations has accentuated the inability of the legislature to act upon money bills when it is dependent for leadership solely from within itself. Moreover, legislators are part-time officials, particularly when the sessions recur biennially and last for only a few months. During the decade of the nineteen-thirties, the legislature was in session only 117 out of approximately 620 working days in the biennium.⁵¹ While the legislature was at work only 20 per cent of the available time, it should be realized further that not all of the time was devoted to fiscal matters. Proper fiscal planning requires constant contact with the spending agencies; budget making is a continuous process which for the best results should be undertaken annually.

The turnover in personnel in the Michigan legislature allows few of the members to progress beyond the state of the novice. In the five legislatures from 1931 to 1939 there was an average turnover per session of 55 per cent in the Senate and almost 50 per cent in the House.⁵² All legislators do not need to qualify as experts on the financial needs of the various state agencies if the appropriate committees in each house can supply a degree of professional direction and if their leadership is accepted and followed by the legislature. These committees, surprisingly enough, have a higher rate of change in their membership than either of the two legislative chambers. During the nineteen-thirties, the Senate committee on finance and appropriations had an average turnover in membership of 73 per cent; on an average 62 per cent of the members of the ways and means committee of the House have been studying appropriation bills for the first time. The Democratic landslide of 1932 intensified the situation to the extent that only four of the eighteen members of these two committees had had previous experience in

⁵¹ Data compiled by the author from the Michigan House and Senate journals.

⁵² Data compiled by the author from the *Michigan Manual*.

dealing with expenditures.⁵³ Thus, when the problems were most difficult, they had to be solved by beginners. If the legislature is expected to do nothing more than examine and check an ideal executive budget, a solution must be found to the problem of excessive turnover. Under the circumstances no greater budgetary responsibility can be thrust upon the legislature than it now has, and the necessity of strengthening executive leadership in appropriation becomes more apparent.

CONCLUSION

The fact that Michigan has had a budget system dominated by a chief executive during the whole twenty-year period surveyed would lead to the supposition that this sphere offered the governor his greatest influence on appropriations. During the three terms which Governor Groesbeck served, the legislature followed the executive's leadership in appropriations. Nevertheless, it should not be contended that this control was accomplished through the rudimentary budget process then in operation. It was not until Green's second administration in 1929, ten years after the budget system was inaugurated, that the potentialities of the budget as a means of executive leadership in appropriation were realized at all.

Executive leadership in appropriations through the budget has been limited by many weaknesses in the budget system. Governor Brucker's experience makes it clear that the time at which the budget is constructed and submitted makes it difficult for a newly elected governor to incorporate his policies into the budget document submitted to the legislature ten days after that body convenes. This condition was aggravated during the nineteen-thirties by the election of governors of different parties every two years. Often this has resulted in transmittal of the budget to the legislature without executive recommendation, and the legislature has had to continue to perform a function of which it was deemed incapable more than twenty years ago.

⁵³ *Ibid.*

The budget has reflected executive policy to some extent despite difficulties inherent in the Michigan budget system. The financial plan is another tool by which the executive may shape the appropriation policy, but, if executives in the future are to be held partly responsible for financial policy, the budget tool should definitely be sharpened.

VI

THE GOVERNOR AND EMERGENCY APPROPRIATIONS

ANOTHER POINT AT which the governor in Michigan participates in the appropriation of state money is in the expenditures made in the event of emergencies. Here again, as in the budget and the veto, the governor is a part of the appropriation process, but his role is not necessarily the dominating one. The importance of this point of contact is lessened because only a small percentage of appropriations is made on the basis of emergency.¹ Nevertheless, for a complete consideration of the governor's role in the appropriation process, it is necessary to investigate the emergency expenditures.

Biennial legislative sessions and unforeseen circumstances combined to make it apparent years ago that an agency was needed to deal with emergency situations arising during the interval between legislative sessions. This acknowledged need was first recognized by an act in 1895 empowering the governor and the Board of State Auditors to authorize contingent appropriations for the replacement or repair of state-owned buildings damaged by fire, explosion, or other accident.² The governor's position has been described as not particularly strong because decisions were to be made "conjointly," and the governor might possibly find himself in the minority.³

LEGAL HISTORY

Statutory alterations have transferred the power to make emergency appropriations from one agency to another, but it is important to note that the governor has remained the one constant factor in every change.

¹ For a chart showing the amounts that were appropriated for emergency purposes from 1922 to 1940, see Appendix A, Table VIII.

² *Compiled Laws of the State of Michigan*, 1915, secs. 1953-57.

³ George C. S. Benson and Edward H. Litchfield, "State Administrative Board in Michigan," *Mich. Gov. Studies, Univ. Mich. Bur. Govt.*, No. 1 (1938): 15-16.

When the State Administrative Board was established in the regular session of 1921, it was given a wide range of control over fiscal matters. In the first extra session of 1921, the first emergency appropriation act gave the board the further authority to pay "emergency claims" out of any fees and special taxes in the state treasury. This provision was limited to two years. Although the act provided a standard against which the emergency character of requests could be measured, it was broad and indefinite.⁴ This standard expired with the original law in 1923, and the term "emergency" has been used thenceforth without explanation.

The rules which governed the proceedings of the State Administrative Board were followed when emergency requests were under consideration. At this time, no order could be issued by the board without the written approval of the governor.⁵ This power, tantamount to veto, extended likewise to emergency appropriations. The governor therefore, could exercise the greatest influence on emergency appropriations.

The State Administrative Board continued to authorize requests for emergency appropriations in the two biennia, 1923-25 and 1925-27, although the original grant of this power to it had been specifically limited to the years 1921-23.⁶ With the advent of the Green administration in 1927, the legislature renewed all of the board's former powers over emergency appropriations which had been originally granted in 1921. The 1927 act was identical with its predecessor in every respect except that there was no time limit imposed on the exercise

⁴ *P. A.*, Extra Session, 1921, No. 29. Section 2 states that emergency claim "shall be construed to be and refer to such claims only as may be presented as a result of damage or disaster to works, buildings or other property owned by the state, or as a result of epidemic of disease menacing the life and health of the people, cost of legal proceedings of the Attorney General's Department, or as a result of lack of sufficient appropriations for the state institutions with which to supply the necessary fuel, food, and clothing and which results were caused by unforeseen circumstances after the adjournment of the legislature."

⁵ *P. A.*, 1921, No. 2, sec. 3.

⁶ Benson and Litchfield, *op. cit.*, p. 32.

of the authority.⁷ It could be assumed to be a permanent adjunct to the board's roster of powers. During this same session of the legislature, an act was passed which reduced the governor's absolute veto over the board's activities to merely a suspensory veto.⁸ The governor's control was thus minimized to the extent that the board could override him.

Although the powers granted by the 1927 act continued to be exercised by the board throughout Governor Green's two terms, legislative dissatisfaction with the board's exercise of this power manifested itself in verbal assaults from time to time.⁹ In 1931 the dissatisfaction crystallized in the form of a new act. Early in the session and with apparent unanimity of feeling, the legislature created what has since been known as the Augmented Administrative Board. The act provided that the board should be augmented by four legislators when considering requests for emergency appropriations. Those designated to sit with the board for this type of deliberation were the chairmen of the ways and means committee and the finance committee and an additional member from each of these committees appointed by its chairman.¹⁰ Under this new arrangement, the governor continued as chairman of the augmented board. Further, it was only at his call that the new group could convene, since he was the one authorized to give notice to the senators and representatives of the necessity for a meeting.

Thus, the legislators had a voice in emergency appropriations, but it was still a minority voice for the years from 1931 to 1937. In the latter year the law was changed again so that the decision in emergencies was completely vested in a commission of legislators and the governor.¹¹ The Emergency Appropriation Commission was composed of the governor, the speaker of the House of Representatives, the members of the House ways and means committee, the president of the Senate, and the members of the

⁷ *P. A.*, 1927, No. 321.

⁸ *Ibid.*, No. 12, secs. 1-3.

⁹ *The Detroit News*, March 13, 1929, p. 2.

¹⁰ *P. A.*, 1931, No. 23, sec. 1.

¹¹ *Ibid.*, 1937, No. 120.

finance and appropriation committee. The governor was designated chairman of this commission, as he had been under the earlier arrangements. He retained, too, the power to call the meetings as the occasion for them arose. According to section 4 of the act, he exercised this authority on the basis of requests for funds submitted to him and to the budget director in writing, setting forth the necessity for such funds and the emergency nature of the request. Further, the governor retained a suspensory veto over the acts of the commission. The act mentioned specifically that the governor had a vote upon all questions having to do with the release of appropriations.

In the same act, the commission, or, as it is now popularly called, the "Little Legislature," received an appropriation of \$1.5 million per year. This amount stood for only one biennium, however, since the 1939 budget act appropriated only \$500,000 per year—a two-thirds cut.¹² The 1941 act carried this same decreased appropriation.¹³ It made two amendments to the 1937 law placing important restrictions on the commission's financial powers. First, the section was struck out under which any moneys over and above the sums specifically appropriated by the legislators were turned over to the commission and made available for its use. Thus, without prospect of drawing on further funds, the \$500,000 yearly appropriation was much more of a limitation on the commission than the 1939 grant had been. Secondly, the commission was denied authority to appropriate money for any purpose that could have been anticipated and made while the legislature was in session, or for any purpose that had been considered and denied by the legislature.

THE QUESTION OF CONSTITUTIONALITY

Doubts have been expressed as to the constitutionality of the emergency appropriation mechanisms described above. Michigan's constitution provides: "No person belonging to one department shall exercise the powers properly belonging to another, except in the cases expressly provided in this constitution."¹⁴

¹² *Ibid.*, 1939, No. 327.

¹³ *Ibid.*, 1941, No. 50.]

¹⁴ *Mich. Constitution*, 1908, Art. IV, sec. 2.

Appropriations are to be made by the law-making branch, and money is not to be paid out of the state treasury otherwise. Yet, during the decade of the nineteen-twenties, the Administrative Board was permitted to make appropriations in a manner not far different from the legislature itself out of any fees and special taxes in the state treasury.¹⁵ Was this not an unconstitutional delegation of the legislature's power? This question is now merely an academic one, for in 1931 the new statute on the subject appropriated a fixed sum of \$1.5 million for 1932 and for each fiscal year thereafter for emergency purposes. A limit was thus set to the amount to be spent, and the Augmented Board was merely to allot a voted appropriation.

More serious legal exception can be taken to the constitutionality of the 1931 and 1937 acts in so far as they associate legislators with executive officers in performing an administrative function. Under the prevailing law, the "Little Legislature" has power to allot emergency funds and to approve intra-departmental transfers as well. There has been no court decision or even an attorney general's opinion interpreting the validity of this particular statute. Yet, other opinions of the latter official indicate that exception might well be taken to legislators' taking part in the allotment of emergency funds.¹⁶ In presenting an opinion on the constitutionality of a bill to make the lieutenant-governor and the speaker of the House members of the Administrative Board, the attorney general held that such an act would conflict with the provision that, "no person elected a member of the legislature shall receive any civil appointment within this state . . . from the legislature . . . during the time for which he shall have been elected."¹⁷ In arriving at his conclusion, the attorney general buttressed his decision with the holding of the New York Court of Appeals in *People v. Tremaine*.¹⁸ This case is in point in any consideration

¹⁵ Benson and Litchfield, *op. cit.*, p. 27; see also *P. A.*, 1921, No. 29, and *ibid.*, 1927, No. 321.

¹⁶ *Report of the Attorney General of Michigan 1937-1938*, pp. 72 ff.

¹⁷ *Mich. Constitution*, 1908, Art. II, sec. 7.

¹⁸ 252 N. Y. 27 (1929).

of the constitutionality of legislators being legally associated with the governor in making emergency funds available. The New York legislature passed an act providing that whenever a state department was created or reorganized and a lump sum appropriated for its operation, no moneys so appropriated should be available for payments for personal service until a schedule of positions and salaries should have been approved by the governor, the chairman of the finance committee of the Senate, and the chairman of the ways and means committee of the Assembly. The court held that the statute in question amounted to a civil appointment conferred by the legislature upon certain of its members, and was therefore unconstitutional under the provision of the New York constitution, which in the section on "civil appointments" is similar to the Michigan provision. The reasoning of the New York court as applied to civil appointment might be applied with similar force in the question of constitutionality of the Augmented Board and its successor, the Emergency Appropriation Commission.¹⁹

GROESBECK'S EXPERIENCE UNDER THE 1921 LAW

The first administration to be awarded the power to make emergency appropriations received it with mingled distrust and condemnation. Pointing to the lack of specific funds from which these appropriations could be made, Governor Groesbeck said: "There is no emergency fund and never has been one in Michigan." He condemned the legislature's attitude toward budgetary practices which would permit, much less necessitate, such a fund.²⁰ His attitude was typical of the reaction of most of the members of the State Administrative Board who were to exercise the power with him. One member declared the system "is

¹⁹ See F. G. Crawford, "The Executive Budget System in New York," *Amer. Pol. Sci. Rev.*, XXIII (1929): 914 ff.

²⁰ *The Detroit News*, Dec. 8, 1921, p. 10. The governor explained: "The legislature cut to the core the appropriations for many state institutions and then passed the emergency act with the provision that funds for food, clothing and fuel for state institutions may be drawn from it only when unforeseen circumstances after the adjournment of the Legislature warrant."

a farce, for with the depletion of funds allotted to a state institution under its appropriation, practically any claim may be presented as an emergency and paid out of the general fund.”²¹

Governor Groesbeck summed up the sentiment current at that time by saying: “It is an unworkable law that is absurd.” It is particularly interesting to compare the record of his administration as it operated under this disparaged law with that of the Board of State Auditors which previously exercised similar power. The Board of Auditors in twenty-one months authorized an average monthly payment of \$76,534 to meet deficiency and emergency requirements for twenty-four institutions, while the State Administrative Board allowed an average of only \$21,333 each month for like purposes.²² John Fitzgibbon emphasized the conservatism of the board in its exercise of this power:

The Administrative Board from the outset adopted a policy which is radically different from what had been the policy of the Board of Auditors. The latter voted allowances for emergencies and deficiencies to be paid from the general fund when there was no money in the fund to meet the claims . . . the result being that at the opening of every regular legislative session there was a deficit ranging from \$1,000,000 to \$2,000,000 in the general fund which the Legislature had to make good by a tax levy. The policy of the Administrative Board is that no money is to be voted for deficiencies and emergencies unless the cash is in the general fund. The effect of this policy is that the general fund was far from exhausted when the present session opened.²³

Unfortunately, the conservative policy of this first board was not followed by subsequent boards. They actually jeopardized their possession of the power by their extravagant exercise of it.

Even with this supposedly excellent record to its credit, the board became the target for legislative abuse in the 1923 session. It was asserted that the board had usurped the prerogatives of the legislature in attempting to designate how and when legislative appropriations for state institutions should be spent. The stipulation that no order could be issued without the written

²¹ *Ibid.*

²² *Ibid.*, February 18, 1923, p. 1.

²³ *Ibid.*

approval of the governor made Groesbeck's position particularly vulnerable. In the early part of the 1923 session, the Democrats claimed that the governor had been endowed with autocratic powers and that his veto made the board a one-man organization.²⁴ The governor countered this argument with the statement that it was a "50-50" situation: the executive is powerless if four of the seven members refuse to approve any measure he proposed.²⁵ Nevertheless, it is significant that a bill was introduced as early as the 1923 session to strip the governor of his veto power.²⁶

Since the governor and his board believed there was no real emergency fund because no money was put into it, they proceeded to carry on their fiscal dealings in the biennia 1923-25 and 1925-27 in the same manner as previously. The fact that the power of voting appropriations had legally expired at the end of the fiscal year June 30, 1923, did not deter them from continuing to make emergency appropriations. On March 6, 1925, Senator Harry H. Whitely pointed out that the State Administrative Board had spent \$1,600,448 for what the board considered emergencies during the last two years without authorization from the legislature. Senator Whitely took no further action than publicizing his findings.²⁷ It can be assumed that Governor Groesbeck, who still possessed his absolute veto, and otherwise dominated the board, acquiesced, and very possibly promoted this policy. A further reaction against the board's performance was the introduction of the Harris bill in 1925 which would have prevented the returning of excess sums, which had been appropriated but not used, into the general fund.²⁸

THE CRITICISM OF EMERGENCY GRANTS UNDER GREEN

The legislature had renewed the emergency mandate in 1927 and granted the governor a suspensory veto, but it still was not satisfied with the Administrative Board's handling of emergency

²⁴ *Ibid.*, January 23, 1923, p. 10.

²⁵ *Ibid.*, February 18, 1923, p. 1.

²⁶ *Mich. House Journ.*, 1923, I: 77.

²⁷ *The Detroit News*, March 6, 1925, p. 25.

²⁸ *Mich. House Journ.*, 1925, I: 274.

matters. Sentiment against the board waxed strong in the 1929 session. The feeling that the board's interpretation of the term "emergency appropriations" had been too broad was heightened rather than allayed by Governor Green's submission of a report to the legislature on the financial authorizations of the Administrative Board. Intended to serve as a basis for a statute under which an account of the moneys expended by the board could be rendered to the legislature,²⁹ the report actually gave fuel to the fires of resentment.

Representative Culver's bill to abolish the board failed in committee.³⁰ His second attempt to limit the board came nearer success. He proposed to increase the membership of the board by the addition of eight legislators and foreshadowed the tack which was taken in the 1931 alteration of the emergency law.³¹

Governor Green was alert to the criticisms of his and the board's action, but he was not prepared to relinquish any power. Instead, his great 1929 omnibus budget included provision for expenditures of an emergency nature under the item of "supplementary appropriation."³² Heretofore, the board had made emergency appropriations out of any fees and special taxes in the state treasury. The totals so authorized varied, the peak being \$815,539 in 1925.³³ While his administration had authorized only \$199,558 in emergencies the previous year, Green's request was for \$1 million for each of the next two years. His letter of transmittal with the budget explained: "A factor for contingencies has been included in the budget in an amount of approximately 3 per cent of the estimated and recommended expenditures to provide for probable error and unanticipated emergencies and State needs."³⁴ Green, cognizant of the distrust with which the legislature viewed this request, devoted a

²⁹ Governor's message of transmittal, *Mich. House Journ.*, 1929, I: 290.

³⁰ *Mich. House Journ.*, 1929, I: 316.

³¹ *Ibid.*, II: 820.

³² Message to the Legislature, *Mich. House Journ.*, 1929, II: 946.

³³ *Ibid.*

³⁴ *State of Michigan Budget for Fiscal Years Ending June 30, 1930 and June 30, 1931*, p. 5.

special message to justifying the necessity of it and answering arguments which had been raised.³⁵

Although there were very outspoken critics of this supplementary appropriation, last minute attempts to strike it out failed. The enlarged tax clause passed both houses by comfortable majorities, despite Representative De Land's charge: "You have, by approving this bill, put over on the people of Michigan the greatest fraud appropriation bill that was ever passed by a Michigan legislature."³⁶

1931: THE AUGMENTED ADMINISTRATIVE BOARD

The legislators acquiesced in the large appropriation for emergencies, but their zeal to have a voice in its expenditure did not abate. The 1931 law not only gave them representation on the board for purposes of allowing emergency expenditures, but also allowed for the first time a definite appropriation out of which authorizations were to be paid.³⁷ For this purpose, \$1.5 million was appropriated for each fiscal year. Green's "supplementary appropriation" had been a step in that direction, but it provided only for an enlarged sum to be placed on the tax rolls, thus ensuring a favorable differential between income and outgo.

With the onslaught of the depression, Brucker announced early in 1931 a strict financial policy whereby there was to be a closer check on allotments and overdrafts were not to be allowed. He declared that if an agency exhausted its appropriation, it must come before the Augmented Board for an emergency appropriation.³⁸ During the two years of his administration, Brucker completely controlled the matter of emergency

³⁵ *Mich. House Journ.*, 1929, II: 947. He explained simply: "The only new thing about this [supplementary emergency item] is that it is put before you in a straightforward manner, before this type of expenditure is incurred, so that revenue may be raised to meet it . . ." Against the argument that this item provided the State Administrative Board with a large sum of money annually to appropriate as it saw fit, Green responded that the act granted no powers not already possessed by the board.

³⁶ *Ibid.*, p. 1015.

³⁷ *P. A.*, 1931, No. 23.

³⁸ *The Detroit News*, January 21, 1931, p. 11.

appropriations himself through his power of discretion in calling a meeting of the board with the legislators present. Although there were three requests for emergency grants during the first year³⁹ and two in the second year,⁴⁰ he refused to summon the Augmented Administrative Board. It is important to note that his exercise of discretion in these five instances amounted to virtual veto of the items requested and, more than that, complete domination of the whole process.

Governor Comstock's attitude toward the Augmented Administrative Board is in marked contrast. Although he did not convene the hybrid body until the 1933 legislature adjourned, he later called ten different meetings during the fiscal year 1933-34. The fourteen requests which were granted made a total emergency expenditure of \$1,296,395.⁴¹ Most of this sum was in the form of emergency school aid to relieve those school districts whose funds were impounded in closed banks.

The minutes of the augmented sessions of the board revealed that Comstock apparently considered himself one among equals in the deliberations. There were few examples of his attempt to influence the board on appropriations. He did stress the emergency character of the school situation.⁴² He also acted as a co-ordinator in relation to the request for \$55,000 to be used in rehabilitating Cottage C at the Michigan Home and Training School. He asked the board not to act on the request until he could present a resolution from the State Hospital Commission; when the resolution stated the necessity for such improvement, the board passed it unanimously.⁴³ Aside from these instances, the governor apparently assumed that the recommendations of the finance committee of the board and the presentation of reasons by those requesting funds should be the determining factors in granting the funds. His attitude in this matter is entirely consistent with his interpretation of the governor's part in the whole problem of appropriations.

³⁹ *Proc. Augmented Admin. Board*, July 7, 1931, and July 29, 1931.

⁴⁰ *Ibid.*, December 20, 1932.

⁴¹ Compiled by the author from the *Proc. Augmented Admin. Board*.

⁴² *Ibid.*, September 11, 1933.

⁴³ *Ibid.*, September 26, 1934.

FITZGERALD'S "HANDS-OFF" POLICY

The attitude of Governor Fitzgerald on emergency appropriations was expressed during his term on the Administrative Board while he was secretary of state in 1933-35. He voted "no" on four of the fourteen requests granted in the fiscal year ending June 30, 1934;⁴⁴ perhaps he did so out of political considerations and a desire to go on record as an economizer. Nevertheless, at the second meeting of the Augmented Board during his own administration, Governor Fitzgerald declared that in the past the board had exceeded its authority and usurped the powers of the legislature to a far greater extent than it should or had any legal right to do. The occasion for this condemnation was the request of the assistant superintendent of public instruction for \$400 to match Federal Government funds for a training program for fire fighters. The governor pointed out:

This could in no sense be considered an emergency appropriation. The purpose of the appropriation of emergency funds by the legislature was to enable this board to meet emergencies when the legislature was not in session. The legislature now is in session and this matter should be referred to the legislature.⁴⁵

Not only was the training program request immediately withdrawn, but the request of State Treasurer Fry at this same meeting for an emergency appropriation of \$3,955 for bills in connection with the Hotel Kerns fire was likewise withdrawn and referred to the legislature at the suggestion of Governor Fitzgerald.

This policy of "hands off while the legislature is in session" was maintained consistently by Fitzgerald. The Augmented Board went so far as to ask the Board of State Auditors to refer back to the proper legislative committee the request, embodied in House Resolution No. 41, for the immediate appropriation of the necessary funds for two new elevators in the state capitol.⁴⁶ There were only two appropriations made during the period the legislature was in session. The larger item of \$200,000

⁴⁴ *Ibid.*, March 15, 1934, and June 12, 1934.

⁴⁵ *Ibid.*, January 22, 1935.

⁴⁶ *Ibid.*, April 23, 1935.

was for additional loans to extremely distressed school districts.⁴⁷ Virtually the only requests acted on affirmatively by the Augmented Board during that time were loans to school districts.

Fitzgerald not only restrained the Augmented Board while the legislature was in session, in the meeting on July 25, 1935, his expressed opinion that the employment of additional help during vacation periods did not constitute an emergency led to a negative vote on request of the Board of State Auditors for \$5,000. This same governor brought into use the dormant veto power. When the board approved the request for \$300 made by the State Board of Examiners in Optometry and an additional \$300 for convention expenses of the Spanish War Veterans, Fitzgerald vetoed both grants. The amounts were small, but this action does show that the governor has recourse to this powerful control when the occasion warrants.⁴⁸

These statements and acts by Fitzgerald hit their mark, and for the rest of his term he seldom had to exhort the Augmented Board on the proper sphere of its activities.⁴⁹

Apparently, there was little difference of opinion among administrators and legislators on the board. On one occasion, however, Senator A. E. Wood complained especially of a \$7,500 item for reinforcing the ceilings of the House and Senate chambers so they might bear a greater load of state records. He warned that if the board kept on using money for purposes for which the legislature refused to make appropriations, the legislature would refuse to make any emergency fund available.⁵⁰

THE EMERGENCY APPROPRIATION COMMISSION

This statement proved to be no idle warning, for when the legislature convened again in 1937, it was so angered by deficits

⁴⁷ *Ibid.*, March 26, 1935.

⁴⁸ *Ibid.*, July 25, 1935.

⁴⁹ *Ibid.*, October 22, 1935.

⁵⁰ *The Detroit News*, March 12, 1936, p. 18. This threat was partly realized when the 1941 act prevented the commission from using excess funds or from appropriating for any purpose which had been considered and denied by the legislature.

incurred during the two preceding fiscal years that it voted to control expenditures by a commission of its own when it is out of session.⁵¹ The Emergency Appropriation Commission succeeded to the powers of the Augmented Administrative Board, and this constituted a far greater change than when the Augmented Board assumed the emergency powers of the Administrative Board in 1931-33. The twenty-three members of the commission made it twice as large as the Augmented Board. According to the rules adopted by the commission, each member was entitled to actual expenses while in attendance at meetings, and to five cents per mile each way for each meeting.⁵² In view of the large membership, it was expensive to call the group together. This may partly explain why the commission has averaged only three meetings a year in comparison to ten a year for the Augmented Board.

Applications for appropriations are directed to the governor and the budget director, who place them on file where they are open to examination by other members of the commission at all times. In addition, the members are sent copies of the requests at least seven days previous to the meeting at which they consider them.⁵³ Although this new body, like its predecessors, meets only when summoned by the chief executive, the advanced publicity given requests may make it more difficult for the governor to refuse to call a meeting than it was when Brucker refused to call the Augmented Administrative Board for two years.

Governor Murphy called the initial meeting of the commission on April 27, 1938, to consider the thirty-nine requests for funds which had been submitted. Representatives of the interests seeking funds appeared before the commission to explain their reasons and answer members' questions as they arose. When no representative appeared, Budget Director Smith explained the request.⁵⁴ This type of procedure reveals why the

⁵¹ *P. A.*, 1937, No. 120.

⁵² *Minutes of Emergency Appropriation Commission*, April 27, 1938.

⁵³ *Ibid.*, Rule 3.

⁵⁴ *Ibid.*

commission came to be called the "Little Legislature." Commenting on its activities, *The Detroit News* pointed out the advantage inherent in the commission and its methods over the plenary sessions of the legislature:

The commission had the advantage over a regular legislative session in that it had the constant aid and advice of the Governor and the budget director. It brought in heads of departments making requests for appropriations and questioned them. Legislative committees do that very thing, but the other members of the Legislature don't hear the discussions and sometimes they decline to believe what their committees report to them. . . . The commission, of course, was not restricted by constitutional provisions which would be necessary to prevent too hasty action by the legislature, but it did demonstrate that such a compact body can digest the facts at hand readily, arrive at its decision promptly and get results that are at least normally desirable.⁵⁵

The chief executive, because of the composition of the commission, may exercise as great influence as he did in the Augmented Board. As an administrator, he has an intimate knowledge of the financial status of most state agencies, while the legislative members, who have returned home after the session and have been removed from close contact with the problems, are particularly dependent on the governor's advice and guidance. For example, the commission responded promptly to the appeal of Governor Murphy that it immediately make the \$1 million available which had been requested for state emergency welfare relief. He assured the skeptical commission that welfare administration was neither lavish nor careless and that it was being handled with little political meddling. The request was granted during the first day.⁵⁶

The legislators were somewhat more quizzical concerning the request of the State Administrative Board for funds for a new accounting system. Prior to the meeting it was freely predicted that the commission would refuse to release the money. Some legislators considered it a plot to circumvent their refusal in

⁵⁵ *The Detroit News*, May 1, 1938, p. 3.

⁵⁶ *Ibid.*

regular session to establish a central accounting division. Budget Director Smith and the Secretary of the Administrative Board appeared to explain the requests and answer questions. The governor assured the commission members that the money would be used solely to modernize the state's accounting system and would not be used to usurp any legislative functions by the administrative department.⁵⁷ According to W. A. Markland, these explanations were well received:

The twenty-one legislators sitting there in the Senate Chamber with the governor and the budget director seemed inclined to place some credence in what the administrative officials told them. . . . It is easy to be suspicious of formal, written messages, or those transmitted through a third party, but it is difficult to question the good faith of a man who sits across the table.⁵⁸

The commission authorized the expenditure by a vote of sixteen to six.

The commission considered thirty-nine requests for emergency or supplementary funds, granted eighteen sums as requested and six in reduced amount, and denied fifteen others. The total amount allotted from the 1937-38 appropriation was \$1,247,446, and from the 1938-39 amount they distributed \$337,380. The governor was pleased with the results and commended the commission for its discussions, which were orderly, satisfying, and discriminating.⁵⁹

Two months after its first meeting, the governor called the commission together to consider fourteen requests, the largest one again being \$1.3 million for state emergency welfare relief. Half of these requests were reduced before they were granted, and two more were rejected. Among those suffering reductions was the relief allotment, which passed at \$1.1 million, and the request of the civil service commission, which was reduced by one-third.⁶⁰ Out of the appropriation of \$3 million for the two fiscal years in which Murphy was chairman of the commission,

⁵⁷ *Minutes of Emergency Appropriation Commission*, April 28, 1938.

⁵⁸ *The Detroit News*, May 1, 1938, p. 5.

⁵⁹ *Minutes of Emergency Appropriation Commission*, April 28, 1938.

⁶⁰ *Ibid.*, July 26, 1938.

\$2.1 million went for welfare relief. This outlay not only reflected the problems of the new depression but also showed that the humanitarian governor had a great influence on the commission.

The last meeting Murphy called was for the sole purpose of considering the request of \$7,500 for the Drum and Bugle Corps of the American Legion Cook Nelson Post No. 20. Only sixteen out of the twenty-three members of the commission were present, and they provided for this acknowledged "emergency."⁶¹

When the Republicans assumed office in January, 1939, there was an unencumbered balance in the Emergency Appropriation fund of \$61,306 which had to last until June. Since it was a legislative year, the commission considered only three requests during this time and granted a total of \$50,500.⁶²

The "Little Legislature" had been functioning for only one biennium when the legislature renewed its complaints against the emergency appropriation process. A bill was introduced to repeal the act giving the commission control over emergency appropriations. The sponsor of the bill charged that there was an unwarranted delegation of the powers of the legislature to the commission. He maintained that the legislature should make its appropriations carefully and intelligently and then, if a real emergency arises, it should be called into special session to meet the problem.⁶³ Senator Miles M. Callaghan, a member of the commission which the bill would have abolished, defended it as sensible and economical. He pointed out that it operated at a cost of \$450, compared to a cost of approximately \$6,000 for calling the full legislature into special session for two days.⁶⁴ The bill passed the Senate, but it was never reported out of the committee on ways and means in the House.⁶⁵ Al-

⁶¹ *Ibid.*, August 31, 1938.

⁶² *Ibid.*, February 14, 1939, and April 21, 1939.

⁶³ *The Detroit News*, March 15, 1939, p. 30.

⁶⁴ *Ibid.*, March 29, 1939, p. 4.

⁶⁵ *Mich. House Journ.*, 1939, I: 890.

though the emergency commission was not abolished, the legislature at this same session reduced its appropriation to \$500,000 each year.⁶⁶

One of the few instances in which Dickinson attempted to influence the commission occurred when the State Housing Commission sought funds. He remarked that had he known there were so many commissions existing which had been created during the past two years, he would have asked the legislature for a commission to go through these commissions and determine how many could be eliminated. The governor promised to eliminate these bodies by executive order if he had the power, and he predicted the State Housing Commission would be one of them to go. Following Dickinson's remarks, the commission voted to lay the request of the State Housing Commission on the table.⁶⁷

When Budget Director Gus T. Hartman submitted requests to the commission meeting on September 14, 1939, he recommended what he thought each grant should be, and where no amount was recommended by him, it was his suggestion that the whole request be denied.⁶⁸ Since the budget director is responsible to the governor, these recommendations reflected the latter's wishes. A comparison of the requests, recommendations, and the commission's subsequent action revealed that out of nineteen requests fifteen were accepted and in only four cases were the budget director's recommendations disregarded.⁶⁹

In the meeting on April 11, 1940, the commission voted fifteen items exactly as the budget director had recommended. The three grants made, despite lack of recommendation, were for conventions of veterans' organizations. At the same time an allocation for the hospital building program of \$355,000 from the emergency appropriation of \$500,000 was made for the fiscal year 1940-41—with the understanding, however, that

⁶⁶ *P. A.*, 1939, No. 327.

⁶⁷ *Minutes of the Emergency Appropriation Commission*, July 20, 1939.

⁶⁸ *Ibid.*, September 14, 1939.

⁶⁹ *Ibid.*

the allowances should not be made available for expenditure until July 1, 1940.⁷⁰

Although they were given only \$500,000 per year to spend on emergencies, the members voted to authorize \$1 million for welfare purposes at this same April meeting.⁷¹ This amount was to be met out of excess revenues in the state treasury. This policy was discussed at the next meeting on July 3, 1940. Representative Warner questioned the commission's right to go beyond the \$500,000 yearly appropriation. Senator Bishop upheld it in that power:

In the last session of our Commission, it was stated here publicly that this Commission had the right to spend money out of its appropriation . . . and after the first of July, if it was determined we had excess of revenues above the amount appropriated by the legislature, the commission would have the authority to spend money out of any additional revenue.⁷²

Making full use of this interpretation, the commission authorized \$891,000 out of excess revenues to pay for deficiencies in the 1939-40 fiscal year. Further, they authorized \$397,989 to be paid out in the coming year. Only \$57,316 of this last sum was from the emergency fund. To prevent such a costly construction in the future, the 1941 legislature made the statute specific.

CONCLUSION

The method of making emergency appropriations has been subjected to numerous statutory alterations. The constitutionality of the several appropriating agencies has been questioned, but the difficulty of bringing the issue into court may preclude judicial determination in the near future. The tendency has been for the legislative branch to assume an ever larger responsibility in the matter, but the governor is the only state official to play a continuous part in the process. When the Administrative Board and the Augmented Board controlled

⁷⁰ *Ibid.*, April 11, 1940.

⁷¹ *Mich. Budget for 1942 and 1943*, p. 2.

⁷² *Minutes of Emergency Appropriation Commission*, July 3, 1940.

emergency appropriations, the governor's influence was at its maximum. The Emergency Appropriation Commission, of which he is a member, has had its appropriations so decreased and its powers so circumscribed that whether the governor dominates it or not is less important. His position as administrative chief, in so far as any one can be given that title in Michigan, makes him the strongest single force on that body. His presence at the meetings, where he personally expresses his views and calls upon the budget director and department heads to back him up enables him to direct the "Little Legislature" more completely than he does the parent body. This process suggests the feasibility of similar co-operation between the two departments in the regular sessions of the legislature.

The extent to which appropriations have reflected the personal policies of the governors has varied. Brucker controlled the process completely; Fitzgerald certainly made his attitude known and not without results; Murphy, despite the larger participation of the legislature, dominated the emergency outlays in his term. Gubernatorial influence, great as it may have been at times, should not be overemphasized in a consideration of the whole subject, for emergencies have never constituted more than 3 per cent of budgeted appropriations.

The lawmakers deprecate the idea of emergency appropriations on three grounds: first, the regular appropriations are insufficient only because the executive virtually instructs the legislature to pass inadequate amounts out of his desire to establish an economy record; second, the term emergency is too often perverted to mean political expediency; and third, the delegation of authority to appropriate, although possibly legal, violates the traditional legislative control of appropriations. These complaints would not justify discontinuance of some arrangement for emergency appropriations, however, especially in a state in which the legislature meets in regular session only once every two years.

VII

THE INFLUENCE OF THE EXTRACONSTITUTIONAL POWERS OF THE GOVERNOR ON FINANCIAL LEGISLATION

FOR A FULL UNDERSTANDING of the influence of the governor upon the appropriation of money by the legislature, it is necessary to consider more than the express constitutional and supplementary statutory provisions which have vested the executive with legislative power. In the words of one authority: "No governor in modern times who has succeeded in establishing a record for constructive leadership has confined his activity in the leadership of legislation to the use of these constitutional powers."¹ It is by exerting indirect powers more political than legal in nature that the governor's legislative accomplishments have earned for him the appellation of "chief legislator." A former Michigan governor acknowledged this when he wrote: "I found the direct powers of the executive quite limited in scope, because of the checks on those powers inherent in our system of government."² This being true, in order to understand fully the strength of the governor in dealing with the legislature, it is necessary to consider the extraconstitutional tools upon which he chiefly relies. This face of the coin is familiar to experienced participants in politics and realistic students of the subject, but it shocks those who still envisage politics in the more heroic mold.³ Because the governor uses his wits and skill in handling men to make his power effective, there is no reason to lament the facts and charge the governor with a lack of integrity.

THE GOVERNOR'S MEANS OF INFLUENCE

The term political influence is extended to cover a number of means by which the chief executive exerts his will in the legis-

¹ W. B. Graves, *American State Government* (Boston, 1936), p. 307.

² Letter to the author from former Governor Comstock, Dec. 17, 1940.

³ Pendleton Herring, *Presidential Leadership* (New York, 1940), p. 46.

lature. Writers commonly mention the governor's spokesmen in the legislature, his conferences with party leaders, his appeals to public opinion through speeches, interviews with the press, and conferences with local leaders, his distribution of patronage, and his party leadership. Wide variations are found in the efforts at classification of the means by which a skillful chief executive makes certain that "administration bills" pass. In addition to being numerous and intangible, there are other variables which make it difficult to classify these techniques. There is as much variety in executive relations with the legislature as there are differences in the men holding the office of governor. No two governors ever resort to exactly the same procedure in working with lawmakers, and perhaps the same governor finds it necessary to vary his style of operation when during a second season in office he is confronted by a new legislative line-up. Brucker, governor of Michigan from 1931 to 1933, volunteered the following summary of methods:

The Governor has a number of means at his disposal for playing a part in Legislative action. He has his floor leaders and observers in both Houses at all times and can exert a constant influence in the direction of his financial policy, and can detect at once if there are any defections or opposition to the whole or any part. The means at his disposal for controlling legislation on financial matters might be grouped as follows:

Direct: (a) Direction through committees of the Legislature: The Ways and Means Committee of the House of Representatives and the Finance Committee of the Senate hold meetings which are called "hearings" at which time Department heads are called in to explain their needs for the biennium. At these times the Governor has a tremendous influence by seeing that the Department heads "play ball" with the administration and whenever his observers report resistance the Governor has the power to speak directly to the Department head involved and to discuss his attitude before the Committee either in advance of the hearing or afterward. Likewise the members of the Committee generally include the floor leader representing the Executive Office, and this Legislator can exert a healthy influence.

(b) Direction through appeal strictly on the basis of merits to individual legislators: The Governor has an opportunity to call in mem-

bers of the Legislature and discuss the matter with each of them individually upon the basis of merit.

(c) *Direct appeal on the basis of patronage, executive favor or other interests of the legislator*: The Governor has an opportunity to make a direct appeal upon extraneous matters which do not relate to the particular legislation involved but to other considerations which may be deemed controlling.

Indirect: (a) Appeal to "back home voters": The Governor has an opportunity to appeal to the supporters and citizens in the back home districts of any adversary Legislators, thus going over the head of the Legislator who may be opposed to the Governor's financial policy.

(b) *Appeal to speak generally through press and radio*: The Governor can go over the heads of all of the members of the Legislature and make a general appeal for public support through press and radio for administrative policies.⁴

Many students of government have enumerated the methods of bridging the gap created by the theoretical separation of legislative, executive, and judicial powers; but now it is possible to substantiate their suppositions with the full authoritative testimony of a former governor. This summary is all the more remarkable when contrasted with the plain words of Article IV of Michigan's constitution, which reads:

The powers of government are divided into three departments: the legislative, executive and judicial. No person belonging to one department shall exercise the powers properly belonging to another, except in the cases expressly provided in this constitution.

The executive and the legislature have been separated by the constitution, but the gap can be closed. Legal powers exist in equal array for all governors, but executive ascendancy is largely dependent upon extralegal factors which are not inherited with the title. Therefore, to recognize fully the extent of obedience the governors have been able to exact from the legislature, more evidence is needed.⁵

⁴ Letter to the author, Nov. 20, 1940.

⁵ Every living former governor has been called upon to describe his techniques in handling the legislature. They all responded, and their experiences will be referred to constantly in this chapter.

INFLUENCE IN COMMITTEES

The leadership of the governor in legislative committees concerned with finance was the first point mentioned by Governor Brucker. His successor, Governor Comstock, relied on this leadership for the success of his whole financial program. He informed the chairman of the ways and means committee, Mr. Clyde M. Stout, of his refusal to accept the budget of his predecessor and outlined his own views to him. Comstock credited Stout, and the ranking Republican, Representative Vernon Brown, with following his requests: "Every item was properly investigated and checked. It is entirely due to the splendid work of these two men that the ensuing budget was balanced." Comstock went on to explain:

The same opportunity for an indirect influence exists for every new administration providing, of course, the executive and the ways and means committee members can work together harmoniously. Quite frequently it is necessary also that the finance committee of the Senate co-operates properly. If there is friction between the House and the Senate, it is sometimes difficult to get these committees into agreement. The executive often has to be the referee.⁶

It is fair to assume that in such contests the governor would see that the compromise was in harmony with his own general financial policy.

One of the best examples of executive peace making between legislative factions was the work of acting-Governor Harry F. Kelly in July, 1939. Governor Dickinson had held two conferences with the budget director and "key" legislators in an endeavor to scale down appropriations which were \$8 million in excess of revenues at the time of temporary adjournment of the legislature. The administration had promised to balance the budget, but the legislature remained recalcitrant when it reconvened for final adjournment. Dickinson had left for the Governors' Conference threatening continuous special sessions if an agreement were not reached. Kelly, the Secretary of State, who then became acting governor, insisted on a con-

⁶ Letter to the author, December 2, 1940.

ference between leaders of the opposing groups, and he was credited with the decisive maneuvers which caused the legislature finally to balance the state budget before it went home.⁷

Governors have in the past attended committee "hearings" in person. Governor Groesbeck had set a rule for himself that he would not attend committee hearings on bills which he had sponsored, but on one occasion he dropped this self-imposed limitation to appear before a Senate committee.⁸ Governor Green appeared before the ways and means committee of the House in an effort to hold his request for \$20 million for state hospitals to that figure. As the bill had been reported out of the committee, it provided an appropriation of \$28 million, which, it was generally agreed, was too high, and the committee consented to make reductions. The ways and means committee then demanded that the governor specify the items he wanted to reduce, but Green would only say that he wanted the \$20 million for state hospitals. The committee preferred to do the striking out itself, for, as one member explained: "This will save us much embarrassment, because if he reduces appropriations after we leave, we will get blamed for extravagance."⁹

Other members of the governor's official family play a greater part at the committee hearings than does the chief executive. When Brucker was requested to elaborate on his statement that the governor has influence at the hearings on appropriations by seeing that the department heads "play ball," he illustrated from his own rich experience. He explained:

A certain department head in my administration was giving me the impression that he was "playing ball," but I found from my floor leader in the Senate that he was making other representations to the committee, both on the record and off the record. For instance, he would send a deputy to various members of the committee telling them that he could not possibly get along with an appropriation such as that recommended by the governor's office, and thus lobbied privately for increases which were not in my own opinion justified.

⁷ *The Detroit News*, July 1, 1939, p. 3.

⁸ *Ibid.*, May 1, 1925, p. 26.

⁹ *Ibid.*, April 19, 1929, p. 2.

When the query was raised as to how the governor could put a stop to this type of practice, the former chief executive continued:

The method used in this case was to call the department head "on the carpet" and have a definite understanding and also to speak plainly to the chairman of the Senate finance committee in another conference. Had I had the experience in advance of the legislature I would have discussed this directly with the chairman of the finance committee before any hearings were held. Let me say in this connection that the budget director should be of the type and temperament who can establish intimate relations with the chairman and members of the appropriation committees. He can save a lot of grief and detect situations of this kind before they ripen.¹⁰

The governor may seek co-operation and reinforce this request by threatened reprisals against institutions and members of his boards, commissions, and departments, who seek funds beyond his recommendations, but the fact that the governor does not have power to appoint and remove all these individuals seriously hampers him in controlling them. Norman Hill, executive secretary to Governor Murphy, in describing the situation during the administration emphasized the difficulty of holding the various agencies in check under the disintegrated administration in Michigan. He explained that special trouble was encountered in trying to keep the several elective state officers "in line" on appropriations. Education and highways, the two departments that spend the most money, are in this category.¹¹ Governor Murphy had a superintendent of public instruction who was of the opposite political faith, and a highway commissioner who, although of the same party as the governor, belonged to a different faction.

THE RELATIONSHIP BETWEEN THE GOVERNOR AND THE LEGISLATIVE LEADERS

The governor depends a great deal upon certain legislators

¹⁰ Letter to the author, December 12, 1940.

¹¹ The Department of Public Instruction does not actually spend the school appropriation, but the superintendent of public instruction apportions the state aid grants among the school districts.

and leaders in the House and Senate. The floor leader's job exists vaguely and unofficially. Never has a governor issued a certificate of appointment or led a legislator into either house and proclaimed: "This is *my* floor leader."¹² It is doubtful that any governor has told any legislator that he wants him to be floor leader, or that any legislator has applied for the title. However, at every session of the legislature there is in each house someone to whom the members turn expectant eyes when it seems clear that something ought to be said in behalf of the governor. "Inevitably the floor leader is referred to as a member of the 'Hot Ankle Club' and twitted about his phantom roller skates." The allusion, of course, is to his frequent and hurried trips to the executive office. The chroniclers quickly identified Senator Horton as Governor Brucker's floor leader in the Senate. After the senator had made a few trips down the corridor, they wrote: "His countenance and manner indicate to trained observers that a responsibility greater than usual rests upon his shoulders. He has been seen at luncheon with Governor Brucker. *Ergo* he must be Senate floor leader."¹³ It was the consensus of opinion that the Governor could hardly have picked a better one, for Horton had had four terms in the Senate and was popular. The same administration had several influential men in the House, but the representative who was secretary of the Republican state central committee appeared to be closest to the governor.

Some governors have advanced their programs by establishing a good relationship with the presiding officers as well as with influential members of the legislature.¹⁴ In 1923 Governor Groesbeck was endeavoring to secure legislation to finance his highway measures. The administration bill for the automobile

¹² This spokesman for the governor is not to be confused with the regular floor leaders who are chosen at party caucuses by majority and minority parties in the legislature.

¹³ *The Detroit News*, January 11, 1931, p. 4.

¹⁴ It has not been necessary for Michigan governors to campaign actively for their choice for speaker. According to former Senator Charles A. Sink, the governor needs only to indicate which of the leading contestants he favors and his endorsement virtually ensures the election of that man.

weight tax passed the Senate, and to save time, as the last week of the session was at hand, it was introduced in the House the same evening. Speaker George W. Welsh referred it to the "taxation committee" under the impression that the chairman was a sturdy supporter of the bill and that the committee would meet later in the evening and report it out immediately. But something happened. The chairman talked with the members of his committee and shortly after announced that the committee would not only not meet at once but would also "severely" amend the bill when it was considered. Speaker Welsh conferred with the governor and the executive's supporters, and then announced that the weight tax bill had been transferred to the transportation committee which would meet the following morning. The bill came out of this committee substantially as it had passed the Senate.¹⁵

Upon occasion, governors will reach beyond the immediate circle of their intimates and call into conference a number of legislative leaders. Seeking some agreement as to legislation that would shift some of the state tax burden from real property, Governor Brucker conferred privately with Speaker Fred R. Ming, Representative Gus T. Hartman, chairman of the ways and means committee, Senator A. E. Wood of the finance and appropriation committee, and other influential legislators.¹⁶ The three men named did not always see eye to eye with the governor, but that did not deter him from seeking their support. Brucker was not the last governor to hold such meetings; Governor Murphy resorted to them. The Democratic floor leader worked in constant co-operation with him, but Murphy did not confine his callers to members of his own party for a number of Republicans were frequent visitors at the executive office. A few Republican senators were subsequently held to have been traitorous to their party because they voted with the administration forces on certain measures. The exact numerical split in party strength in the Senate made this support particularly valuable.¹⁷

¹⁵ *The Detroit News*, April 27, 1923, p. 6.

¹⁶ *Ibid.*, April 21, 1931, p. 5.

¹⁷ Interview with Norman Hill, secretary to Governor Murphy.

Governor Groesbeck, who was more successful in getting legislative co-operation than any other governor in the period reviewed in this study, realized fully the value of these conferences. He stated: "We kept the various committees of the Legislature and its *leading* and active members fully informed. . . ."¹⁸ Often Groesbeck invited a number of key legislators to be his guests at dinner. After the meal the governor introduced some serious considerations. One frequent guest described the procedure: "Important pieces of legislation were freely discussed and the chief executive made known his views. Usually, they were so sound and fair that he carried his listeners to his very logical conclusions and a resolution was taken to support them."¹⁹

THE EXECUTIVE LOBBY

Besides the floor leaders and other friends of the administration who are members of either house, some governors have maintained lobbyists to safeguard their bills in the legislature. One governor, who used this method in handling the legislature but preferred to remain anonymous, explained to the author:

I may add that because of the necessary special sessions and the emergency conditions existing I was forced to run a lobby of my own. . . . Throughout my term I had two very well known men working full time, and four others part time (when the legislature was in session). This rather undercover staff reported to me nightly. They were very influential both with members of the ways and means committee of the House, the finance committee of the Senate and with the individual members of the legislature in consolidating opinion on budget matters. I am inclined to think no other chief executive of the state had this experience.

This arrangement was not as unique as this governor thought.

In an article on the lobbyists attending the special session in 1932, a newspaper correspondent pointed out that the most recent development in the realm of lobbyists was the accession of a former tax expert of the Michigan Farm Bureau to the post of "lobbyist extraordinary" to the Brucker administration.

¹⁸ Letter to the author, November 1, 1940.

¹⁹ Interview with former Senator Charles A. Sink, April 4, 1941.

Although this man was already secretary to two legislative commissions, he assumed the responsibilities that ordinarily rested during the regular session on two assistants to the attorney general. The article stated that as secretary of the Commission of Inquiry into County Government and of the Governor's Unemployment Commission, he received a salary from the state but devoted most of his time to the legislature. When plans were being laid for the special session and the governor was holding conferences in Detroit and Lansing with legislators, his man "Friday" was present and participated in the discussions; when the session was actually under way, he spent his time talking to legislators, individually and in groups.²⁰

Effective lobbying in behalf of the executive office attained its highest perfection in the Green administrations, which in point of time, preceded the two examples already given. In fact, it is known that on one occasion, Governor Green went to the Senate and personally lobbied against one appropriation bill which he considered excessive.²¹ Ordinarily, Frank D. McKay negotiated with the legislature for his chief.

Since Governor Green came into office without previous political experience, he quite naturally turned for assistance to the experienced McKay, who had been one of his chief supporters and was then state treasurer. One newspaper described McKay's activities:

He became liaison officer between the Chief Executive and the Legislature. His spats and carnation soon were familiar in the House and Senate. His well manicured hands moved in eloquent gestures as he urged some reluctant member to a place on the administration band wagon. Observers fancied that those hands were pulling complicated wires that caused a group of marionettes to dance to his wishes.²²

He worked so thoroughly and was so successful that the press called him the "erstwhile master" of the House.²³

²⁰ *The Detroit News*, April 5, 1932, p. 9.

²¹ Interview with a former senator.

²² *The Detroit News*, April 27, 1929, p. 16.

²³ *Ibid.*, April 22, 1927, p. 25.

McKay's industriousness caused the governor some distress, for the impression got abroad that McKay was the real head of Michigan's government. One representative, who was something of a critic of the Green administration, availed himself of the privilege under the rules to make a statement which was printed verbatim in the *Journal* explaining his vote on the bill to amend the Workingmen's Compensation Act. He stated: "I did not consent at any time to accept the dictation of an invisible governor of the State of Michigan or the Executive in the front office."²⁴

In his second inaugural, Governor Green ruled out the specter of the invisible governor: "I hope there will be no man among you who will hesitate to take up with me any phase of the state's business in which he is interested. I will have no spokesmen other than myself."²⁵ It seemed for some time fair to interpret this statement as meaning that Mr. McKay would not play the role he had in 1927. The work the latter had done was taken over by the secretary to the governor and an assistant attorney general. Things went well until the House started to emasculate the governor's "pet" omnibus appropriation bill. The executive office became worried when the House threatened to slice off several million dollars.²⁶ McKay, who had been ill, suddenly returned to his office "looking somewhat pale and very serious." He did not go near the legislative chambers, but worked early and late at his own desk receiving visitors. On a Thursday the House voted in committee of the whole to cut \$7 million from the budget bill. It reversed itself on a roll call a few minutes later, but the administration had been thoroughly frightened.²⁷ McKay remained in his office, but during the next twenty-four hours the number of his visitors increased sharply, and not a few of them were members of the House. When the budget bill came up for final passage on Friday, it was approved without a change.²⁸ Around the Capitol one heard: "McKay's the

²⁴ *Mich. House Journ.*, 1927, I: 624.

²⁵ *Ibid.*, 1929, I: 35.

²⁶ *The Detroit News*, April 27, 1929, p. 16.

²⁷ *Ibid.*

²⁸ *Ibid.*

one who did it. They had to call on him when the going got rough even though he was sick." A catastrophe for the governor's expenditure program had been averted by the most skillful executive agent the Capitol has seen.

The unnamed governor mentioned above who employed lobbyists did not use them affirmatively as Green did, that is, to get bills passed. He employed lobbyists to halt matters of which he did not approve. He explained:

I used to say that the governor had a hard time to get anything done, but that he could stop almost anything. I had to know what every legislator and every department head, and every special interest lobbyist was interested in, in order to know what to stop. In other words, I had to know how to trade. Members of the Legislature are under pressure from various interests, both political and economic. It is an open secret that many of them derive some sort of extra benefits from interests they directly owe allegiance to. The situation is always kaleidoscopic—it changes over night in proportion to the various kinds of pressure.

This chief executive through lobbyists of his own sought to offset what he calls "the pernicious influence of lobbyists for special interests."

CONFERENCE WITH THE GOVERNOR

One governor has already called attention to the fact that in private conference with legislators an executive is sometimes able to induce an obdurate member to give the administration his support. Such a change of heart and vote may be the result of the governor's presentation of the merits of his bill. More often, however, the about-face is the result of agreement upon extraneous matters which do not relate to the particular legislation involved. Patronage or some other form of executive favor has been a well spring of leadership in the past which the new civil service system may now dry up. Nevertheless, the backstage nature of such conferences usually makes it uncertain whether the controlling consideration was the governor's personal force of mind and character or his influential position as party leader and patronage distributor. Diagnosis is made more

difficult, too, because the governors who show particular aptitude for such closet conferences often have both these requisites of leadership in a very high degree.

Governor Groesbeck was in constant conference with individual legislators, and it is beyond question that the teamwork he secured from the lawmakers was in part due to these sessions. Daily observers saw much evidence of his tactics:

More than once a member, when one house or another was considering an administration measure, would attack some feature of it. Then would come word that the Governor desired to see him. Back would come the member and publicly announce that perhaps his own viewpoint was wrong and that he would change his attitude.²⁹

Groesbeck, it is said, dominated the legislature with a velvet hand, and the truth of this is borne out by the facts. In the 1921 session every administration measure was passed by the legislature without controversy—passed in all essential details as drafted under the governor's immediate supervision.³⁰ This governor's success was due to the merit of his program and the convincing logic with which he supported it. "At no time did he crack the whip, nor did he plead, nor cajol nor threaten." The mystery as to how he got his own way is cleared when it is known that legislators at all times had access to him in the executive offices without having to make appointments, or send in their names, and he was often there until nearly midnight. Though he listened patiently to every member, none of them, so far as revealed, changed the governor's mind. Invariably, he brought them around to his own viewpoint.³¹

In similar conferences Governor Green can be suspected of using a different approach. His congenial manner undoubtedly enabled him to "win friends and influence people" in the legislature as elsewhere.³² According to his own statement Governor Comstock failed to benefit much from these conferences: "I am

²⁹ John Fitzgibbon in *The Detroit News*, May 1, 1921, p. 20.

³⁰ *Ibid.*

³¹ *Ibid.*, p. 20. This description of Groesbeck's technique in conferences was substantiated by former Senator Sink.

³² *The Detroit News*, January 11, 1931, p. 13.

sorry to say that I found the exposition of the merits of a measure had little influence. Frankly, I tried it many times. The executive opinion always had to be backed up by something entirely outside the question of merit."³³

In order to get some legislative action on important pending measures in April, 1937, demands were made that Governor Murphy "put on the pressure." W. A. Markland, columnist, wrote:

That is exactly what is beginning to happen although the Governor would be the first to deprecate such a direct statement in strong language. . . . The trek from the legislative halls to the "front office" began this week. Anyone is free to guess what is said when a leader of the House or Senate is closeted with the Governor. The Governor never tells. So far as the record goes, he never asks a legislator to get behind an administration measure. "I find the members of the Legislature very helpful," he tells newspaper reporters, and "want to be sure they are given a free hand. No Legislature has ever been freer than this one." In the past, legislators never were called to the "front office" to be told that they were free and helpful.³⁴

Murphy's reluctance to order legislators to co-operate has been substantiated by those close to the administration.³⁵

EXECUTIVE FAVOR

The distribution of patronage and other executive favors, such as administrative support for a "pet" measure, has reinforced executive demands for legislative co-operation when the occasion necessitated. For example, in 1927 Governor Green used his position to good advantage in the maneuvering which attended the passage of the appropriation bill to aid poor school districts. Its sponsor, Mr. Turner, agreed to vote for several administration measures, such as the three-cent gas tax, in order to gain administration support for his school bill.³⁶

³³ Letter to the author, December 17, 1940.

³⁴ *The Detroit News*, April 18, 1937, p. 10.

³⁵ Interview with Norman Hill, secretary to Murphy.

³⁶ *The Detroit News*, May 17, 1927, p. 10.

Groesbeck's refusal to use this strategy was an exception to the prevailing practice.³⁷ He was quoted as having told a delegation that approached him with such a proposition on the bitterly contested weight tax bill to finance his highway program: "I'm not going to do any vote swapping on a bill so important as this is to the people of Michigan. I'm not going to let you make a public scandal of the Governor."³⁸ This refusal of administrative support for pet measures left many bills buried in various committees of the Senate and House.

In the 1927 session comment was made by an experienced newsman on the explanation of votes in the *Journal* to the effect that distribution of jobs affected roll calls. "More or less of these explanations are to camouflage the real reason, which is not infrequently a mess of patronage."³⁹ The passage of the so-called civil service ripper bill in the 1939 session laid bare the concern of the legislators over patronage. The Senate at that time went so far as to set up a patronage committee to confer with Governor Dickinson on the thousands of jobs removed from the classified service. The question as to whether he would dispense patronage himself or leave it to the committee was one Dickinson did not answer at that time. Later, he explained: "[I] will say that patronage or executive support did not play much part in my administration. Putting up plain duty was what I used [to bring the Legislature to a balanced budget]."⁴⁰

Party patronage made intensive lobbying by the administration more effective in 1933. Governor Comstock and his advisers, after a secret session at the University Club in Detroit, agreed upon this method to defeat a substitute sales tax bill which sought to replace the one advocated by the administration. At the time it was expected that the work of the highway commissioner-elect and state superintendent of public instruc-

³⁷ In a letter to the author another governor explained that he was able to secure passage of one of his measures by allowing two members of the opposition party to sponsor it.

³⁸ *The Detroit News*, May 3, 1923, p. 2.

³⁹ *Ibid.*, May 15, 1927, p. 7.

⁴⁰ Letter to the author, January 29, 1941.

tion-elect, would be particularly effective, inasmuch as together they had about 650 jobs to distribute.⁴¹

Even with all patronage at their disposal, Governor Comstock's lobbyists faced an up-hill fight. They presented the issue as one of party loyalty. Democratic legislators were given to understand that the governor would be highly displeased with anyone who voted in favor of the substitute bill. "To anyone seeking favors from the Administration—almost every legislator has a few constituents to put on the state payroll—this is an important consideration."⁴² June 8, the Senate substitute tax bill was defeated in the House by a vote of sixty-six to twenty-nine. The governor had succeeded in marshaling forty-five Democrats—only eight deserted.⁴³

When the other elective department heads are not of the same party as the chief executive—and in recent years the voters have divided their favors frequently—the governor does not have all available patronage to support his measures. In fact, there have been times when favors of the elective state officers have been used to defeat the chief executive's program. In 1935 Republican Governor Fitzgerald warned the Democratic highway commissioner against promising roads and jobs in return for votes against the administration's legislative program.⁴⁴

Legislators from time immemorial have had a finger deep in the patronage pie, but the governor is the one who actually serves most of the pieces. The civil service amendment adopted November 5, 1940, removed the bulk of the jobs in the state service from patronage, and it will be interesting to see if the governor's control over legislation has been materially weakened because of it. W. Y. Elliott is of the opinion that without patronage the executive has no real whip hand to hold his party

⁴¹ *The Detroit News*, May 2, 1933, p. 2.

⁴² *Ibid.*, June 6, 1933, p. 13.

⁴³ *Mich. House Journ.*, 1933, II: 1729. The quarrel was finally settled after a conference committee had altered the administration sales tax to resemble the Senate measure.

⁴⁴ *The Detroit News*, April 29, 1935, p. 32.

to the pledges of his platform or the necessities of unified policy. Perhaps his belief that "the necessity of using patronage to unify policy is the most fundamental weakness of our civil service"⁴⁵ will be borne out in Michigan.

THE GOVERNOR AS A PARTY LEADER

The victorious landslide in 1932 brought the Democrats into control of both the executive and legislative branches of Michigan government for the first time since the Civil War. Prior to that time the legislature was invariably Republican, and except for two short intervals the governor was of the same party. Although the governor acted as legislative leader, party influence in the legislature was a relatively small factor in his success. For example, in 1921, Governor Groesbeck was the only real leader that the session developed, and although every member of the legislature was Republican, his leadership was by no means entirely due to party solidarity. The Republican domination since 1900 is shown in Table III.

Such complete preponderance by the Republicans led to factional quarrels in the late nineteen-twenties. An experienced professional observer remarked on the effect of these family troubles which appeared to be just as devastating as quarrels between the parties:

More important constructive legislation was enacted during the administrations of Governor Hazen S. Pingree and Alex J. Groesbeck than any other of Michigan's chief executives. . . . The proof is in the records. And yet both Mr. Pingree and Mr. Groesbeck went out of office under a drive by factions of their party bitterly hostile to them. Each was succeeded by a governor of the hostile faction.⁴⁶

The Brucker administration, which marked the end of the

⁴⁵ W. Y. Elliott, *The Need for Constitutional Reform* (New York, 1935), p. 200. In further emphasizing the importance of patronage in overcoming the difficulties of separation of powers he declared: "Even when, as is now the case in the Federal Government, the Executive does have the backing of a large party majority in the legislature, his hold tends to weaken and disappear after he has distributed patronage."

⁴⁶ John Fitzgibbon in *The Detroit News*, January 11, 1931, p. 13.

uninterrupted ascendancy of Republicanism, was subjected to the opposition of the Green supporters in the legislature. At the time of the spring convention of 1931, it was said: "For the first time in years, a governor of Michigan faces the prospect of a

TABLE III
RELATIVE STRENGTH OF PARTIES IN THE MICHIGAN
LEGISLATURE IN RECENT YEARS*

Governor	Session	House		Senate	
		Republican	Democrat	Republican	Democrat
Republican . . .	1909	98	2	32	0
Republican . . .	1911	88	12	28	4
Democrat	1913	65	35	27	5
Democrat	1915	95	5	29	3
Republican . . .	1917	88	12	32	0
Republican . . .	1919	98	2	32	0
Republican . . .	1921	99	0	32	0
Republican . . .	1923	95	5	32	0
Republican . . .	1925	100	0	32	0
Republican . . .	1927	97	2	31	0
Republican . . .	1929	98	2	32	0
Republican . . .	1931	98	2	31	1
Democrat	1933	45	55	15	17
Republican . . .	1935	51	49	21	11
Democrat	1937	60	40	15	16
Republican . . .	1939	73	27	26	6

* Compiled from data in *Mich. Manual*.

State Convention of his party which if not openly hostile to him, will be decidedly cool."⁴⁷ It seemed probable that Governor Brucker would go down to defeat before a formidable combination of local bosses and the Green faction. After the convention, a different story was told:

. . . the real feature of the convention was the fact that those canny manipulators of things political . . . put their collective chin in front of a fast one and three hours after the gong were still groggy. They

⁴⁷ *Ibid.*, March 1, 1931, p. 4.

were not even sure who hit them. Maybe it was Governor Brucker, but the Governor was the picture of consummate innocence.⁴⁸

Brucker emerged from the convention with his political prestige noticeably enhanced, and no doubt among those impressed were many legislators.

When the Democrats gained control of the executive and legislative branches of Michigan government in 1933, party influence was important to the governor and the party tie was strong. The first Democratic governor in recent years, Comstock had been the standard bearer for his party for governor three times before he was elected; his financial aid and personal attention were one of the large factors in holding the party together in the lean years. It might be expected that Democratic legislators would respect his wishes as their recognized party leader. The former governor spoke for himself on the point: "Early in my administration, I found it effective to appeal to the Democrats to stand together for the sake of the party record. Later, this appeal was ineffective largely due to disagreements of quantity and quality of patronage."⁴⁹ Comstock's effective combination of patronage and lobbying has already been seen. But the governor's statement notwithstanding, party lines were clearly drawn in the vote on the Kulp bill late in the session. This measure appropriated \$12 million to match federal relief funds. The governor's vigorous support of the measure is shown in his letter to the House on May 15: "I demand of, and I feel confident the people of the State will back me in this demand, that you stop fooling and get down to business on this bill so that our dependent people may be fed and our merchants who have trusted local welfare agents may be paid."⁵⁰ Under this pressure the House passed the bill that very day, and the governor received full benefit of the Democratic vote. Voting in response to the governor's demand were fifty-three Democrats and nineteen Republicans; only four Democrats with-

⁴⁸ *Ibid.*, March 7, 1931, p. 7.

⁴⁹ Letter to the author, December 17, 1940.

⁵⁰ *Mich. House Journ.*, 1933, II: 1242.

stood their chief's fire, and they were joined by nineteen Republicans.

In 1935 the Republicans controlled the House by a very slim majority, but upon investigation of recorded votes on appropriation bills, it was plain that party lines were not followed. The Democrats returned to power again in 1937, but Murphy's gubernatorial leadership did not accomplish a balanced budget. Republicans joined freespending Democrats until finally the chairman of the ways and means committee admonished despairingly: "The budget is more than fifteen million dollars out of balance. Every cent we vote here now is just that much more we haven't got."⁵¹ This warning was of little avail. Lack of a good rapport with legislators made Murphy's warnings about as useless. Frank Murphy was not a long-time leader of the Democratic party in Michigan, and his nomination was in part the result of the strong support he received from Washington. He had never taken a prominent part in Democratic organization or activities. When he was in office the party workers and regulars did not enjoy his intimacy, and few of them were taken into his confidence. Legislators read of important appointments in the newspapers, and often the appointee was unknown to them. Capacity to do the job more than partisanship had determined these appointments. These factors undoubtedly offer a partial explanation of Murphy's inability to get full legislative co-operation on appropriation bills.⁵²

THE GOVERNOR AND PUBLIC OPINION

Chief executives have incited constituents to bring pressure upon their legislators to vote for an administration bill. Governor Brucker gave an interesting example of this artifice:

I found that two members of my group—upon whom I had been particularly relying for support in matters of appropriations—had upon an important bill voted against my recommendation. It was near the end of the legislative session, and there was very little time

⁵¹ *The Detroit Free Press*, June 24, 1937, p. 19. See also *The Detroit News* for same date, p. 12.

⁵² This analysis of Murphy's position was substantiated by his secretary.

left to cope with the situation. Action was immediately necessary. Accordingly, I called in about two dozen key individuals in the communities where these two men came from and personally explained the situation I was up against and the fact that these two men were blocking my program. In each case I called the editor of the local newspaper, the leading banker, the chairman of the county committee of the Republican Party, and several influential local citizens including a couple of women. The result was dynamic. Both men came in the next day and asked me to call off my campaign against them. Each said he had had some heated controversy with life-long friends and thought I did not understand his position, etc. I noticed, however, that both went into the legislature and voted with me on that bill and also the few other things that I had recommended which were left in the legislative session. Personally, I think the "back home voters" idea is not nearly as much employed as it should be because the citizens back home are thoroughly interested but do not get the facts until they are called to their attention. When they find their representatives are "playing horse" they very readily come to the front.⁵³

The effectiveness of this technique of building backfires against refractory members depends to a certain extent on not being used too frequently, or in unimportant causes. It is a risky procedure and if it fails may be most humiliating to the chief executive.

Individual members of the legislature may never in their career elicit the governor's vengeance to the extent that he will subject them to the strategy just described. Every legislator has felt, however, along with his colleagues, the pressure of an active public opinion created by a warring governor. An appeal to the people over the heads of their representatives is a device which no astute governor will neglect. The executive has the advantage over the legislature in these battles, for he commands full attention from the platform and press while the legislature's view is not publicized. It is not necessary that the governor be a great speaker, for a moderate reprimand by a soft-spoken man will call forth the wrath of an already short-tempered public.

⁵³ Letter to the author, December 12, 1940.

Governor Groesbeck dominated the legislature because that body believed his bills were what the people wanted. It was felt that the governor's course was popular, and that by following him the legislators would not get in wrong with their constituents. In his second term, in the fight over whether the road program should be financed by a gas tax or weight tax, Groesbeck met defeat. However, his technique of directing the legislature's attention to public opinion was still good. By special message he made a final appeal to the House. The message reviewed all the advantages claimed by the administration for the weight tax. He warned the House that the people of Michigan expected the legislature to pass adequate financial legislation before adjournment and that they should not permit mere differences of opinion as to method of raising the money to interfere with a solution of the problem.⁵⁴ In a conference with a legislative delegation, Groesbeck admonished: "You men go back and vote for this bill, or go home tomorrow and explain to your people why, after wrestling with this problem for four months you permitted the highway program to be held up for two years."⁵⁵ The special message which followed this conference was immediately released for publication on the assumption that it would be summarized in the papers the members would be reading during the afternoon session.⁵⁶

Governors have ample opportunities to make platform appearances at which times they are able to create public sentiment for their policies. Green attended a larger number of public functions than any other half dozen of his predecessors combined.⁵⁷ His theme was often conservation. The Conservation Department's appropriations increased in the first Green administration from \$1,623,000 to \$2,185,220, or better than a half million dollars for the biennium. In the 1929 session the same department received generous treatment again, and, in

⁵⁴ *Mich. House Journ.*, 1923, II: 1214-15.

⁵⁵ *The Detroit News*, May 3, 1923, p. 2.

⁵⁶ *Ibid.*, May 5, 1923, p. 2.

⁵⁷ John Fitzgibbon made this estimate in a column on the popular appeal of Michigan executives he had known. *The Detroit News*, January 11, 1931, p. 13.

addition, the State Administrative Board's appropriation for buildings and equipment directed an expenditure of \$326,500 for the Department of Conservation. These figures indicate the effectiveness with which Green handled his favorite theme.

Governor Brucker's "kitchen economy" program included a cut in the mill tax appropriation for the University. The press in this instance scored the governor's idea.⁵⁸ Mr. C. L. Ayres, chairman of Brucker's Advisory Council on State Finance, went on the radio in support of the executive's economy program. He expressed regret that the University was the only state institution seriously opposing this economy, and indeed the only institution of the state that seemed to have addressed itself to serious and apparently organized opposition to "the laudable and commendable program of our governor." There was a spirited battle on the floor of the House, but the friends of the University bowed to the governor in the end.⁵⁹

Even Governor Dickinson stirred public opinion to put pressure on the legislature. He stood for a balanced budget which would be made possible only if the school appropriation were cut. "I think the public has a better understanding of this than is usually true of government issues," he said. "Everyone with whom I talk wants the matter settled." He went on to explain that settlement meant reduction of expenses, not new taxes. This same governor was described as adhering strictly to the theory that the executive shall not infringe on the legislature. Dickinson may have refused to be put in the position at any time of telling the legislature directly what to do on any issue,⁶⁰ but he created a strong public impression as to his general desires when he issued a call for prayer, in all the churches of Michigan, asking "that the legislature be given divine guidance, wisdom, and courage in the task of effecting economy and balancing the budget."⁶¹ By this call for prayers, and through the public support which they would generate, the governor ex-

⁵⁸ See editorials in *The Detroit News*, April 10 and 20, 1931.

⁵⁹ Interview with former Senator Charles Sink.

⁶⁰ W. A. Markland, *The Detroit News*, May 7, 1939, p. 5.

⁶¹ *The Detroit Free Press*, April 23, 1939, p. 1.

pected to counteract the powerful lobbies of pressure groups which legislators had been unable to withstand. This plea for public support was quite as effective as it was novel. A *Detroit News* editorial immediately followed:

Governor Dickinson applies his own method of calling attention of the Legislature to its final duty of the year. It is a telling method. What is the Legislature going to do about the Governor's prayers, . . . imploring the lawmakers to defy the lobbies and make a provident adjustment of state outgo to state income?

Afflicted children, tubercular patients, and adults in need of medical treatment went unheeded, and nearly \$12 million was reduced from the budget of the preceding year.

CONCLUSION

The most important single control the governor has in directing the appropriation process is his extraconstitutional powers. All governors, whether weak or strong, have relied on these political means to ensure the success of their programs. Since extraconstitutional stratagems are in the last analysis predicated upon man-to-man relationships, the powers which a governor with one type of personality can make most effective may fail when used by another. Yet each governor has found congenial devices from among those available to him: contacts with committees, conferences with members, gifts of jobs and other favors, calls for party loyalty, appeals to public opinion, reliance on legislative leaders, or building backfires with "back-home" voters.

Through the use of these devices Groesbeck dominated the legislative process so effectively and positively that the resultant product was in reality his product, too, as chief legislator. His administration might be classed as the "age of reason," for he produced adequate evidence beforehand to sufficient members so that his favored bills were passed and those he would otherwise have vetoed were voted down in their initial stages. This explains why he seldom had recourse to the veto and never developed a strong budget system.

Green's use of these powers was not as effective as that of his three-term predecessor. He consequently resorted to employing the full powers of the budget law and found that by backing up this tool with the aid of lobbyists, he could achieve his goal. Green, therefore, forecast what was true of the administrations in the decade of the nineteen-thirties: extraconstitutional powers buttressed and ensured the success of legal powers.

The ample evidence of the extensive use of these various artifices by themselves or to bolster a constitutional power shows up the inadequacies for the governor's purposes of his constitutional and legal powers as they now exist. Hence any encroachment on the political powers, such as the withdrawal of patronage through the civil service amendment, may affect the results which a governor can produce in the future. Of course, the full importance of these maneuvers in controlling the course of legislation cannot always be exactly determined, for they are accomplished through devious and indirect channels. Further, there is no accurate gauge to measure the comparable effectiveness of one extralegal device over another. Yet their total value is of such paramount importance to the governor that any diminution of a part will ultimately decrease his role in the enactment of appropriations.

VIII

THE CONTEST TO CONTROL APPROPRIATIONS IN 1941

THE VOTERS OF MICHIGAN gave the Democratic candidate for governor a plurality of 131,281 votes over the Republican incumbent in November, 1940.¹ Popular discontent was directed at the governor rather than at the legislators, for the electors returned to their traditional voting pattern to elect ninety Republicans and forty-two Democrats to the legislature.² The longest and most unusual legislative session in the history of Michigan followed this election. It lasted from January 1 to October 11 and featured a continuous struggle between the Democratic governor and the Republican legislature. Superficially, this might appear to have been a partisan quarrel, but actually the proceedings dramatized the fundamental contest between the executive and legislative departments which has been manifest in varying degrees for the last two decades. Because appropriations are the chief work of the legislature and because the governor has his broadest legislative entrees in this field, money bills inevitably become the center of differences. The means by which the governor shapes the course of appropriation were revealed for their true worth as the governor and legislature stood at loggerheads in 1941. Although these tools have been considered independently in earlier chapters, there is much to be gained through observing their interrelationship in achieving a gubernatorial program in a single session.

¹ Mr. Willkie's majority of 6,926 over President Roosevelt in Michigan indicates that the voters differentiated between the national parties and issues and their respective counterparts in the state.

² The charge that appropriations, especially those for crippled children and other welfare purposes, were inadequate undoubtedly contributed to the defeat of the Republican governor, but it did not hurt the equally responsible legislature. This is another indication that legislators are not elected on issues and that the individual's part in policy formation is lost in the final confusion.

MESSAGES

Governor Murray D. Van Wagoner, like his predecessors, sent recommendations to the legislature. He was elected from the state as a whole and consequently could speak for the whole electorate rather than some small segment of it. This gave him a prestige and influence enjoyed by all governors which no member of the legislature, nor even a group of members, can hope to match. The expenditures which he advocated in his first message were for the following purposes: providing old-age pensions for all eligibles, aid to crippled and dependent children, aid to the blind, and equipping and staffing of new mental hospitals. He recommended an \$11 million appropriation to reduce the current indebtedness of the state, which was estimated to be about \$25 million. Liberal grants were also requested for the tourist commission, and for the defense council, schools, the state park system, and repairs to the schools for juvenile delinquents and the handicapped.

Although the legislature later acceded to all these demands, not all were for the amounts requested by the governor. On three requests the legislators thwarted him. Five million dollars less than he demanded was appropriated for debt retirement; \$90,000 less was given to the State Defense Council, and \$75,000 was stricken from the proposal for the tourist commission. His suggestions for a new prison for women and a new institution for delinquents were not considered. Acting with inconsistency the lawmakers treated the governor's remaining eight demands with such liberal appropriations that they perverted his intentions and provoked the main struggle of the session. Although Governor Van Wagoner was spokesman for the whole state, the Republican legislators did not feel compelled to follow his recommendations. He did not speak as the leader of the majority in the legislature and hence was not able to implement his suggestions by the political devices that would give them positive force. Despite this political disadvantage, he achieved moderate success.

THE BUDGET

Michigan's budgetary practice has its own familiar peculiari-

ties which presented difficulties for Van Wagoner. Like other incoming governors of Michigan in the last decade, he did not have time to formulate his own budget document because the statute requires its submission to the legislature ten days after it convenes.³ Van Wagoner did not endorse the budget of his forerunner, Governor Dickinson. There was an even wider gap between the ideas of these two men on financial policy than usually exists between the leaders of the two major parties. Van Wagoner favored liberal appropriations for some of the newer activities of government which Dickinson considered unnecessary. Another "orphaned" budget was thus added to the others which had been deserted before under similar circumstances.

Budget Director Hartman tendered his resignation as of January 1, 1941, for he believed that the new governor should name his own director. The Michigan budget law extends the term of the budget director six months beyond the term of the governor who appointed him, and disregards the principle of administration that the term of the chief executive and his subordinates should coincide. It is especially important that the governor be able to appoint his chief financial adviser. Governor Van Wagoner selected Leo J. Nowicki, with whom he had long been associated, for budget director. Shortly after the election, they studied the state's financial problems and outlined a program. The financial recommendations which the governor presented to the legislature in his opening message were the result of their joint effort. Nowicki's familiarity with the governor's policies and Van Wagoner's confidence in him resulted in the delegation of full responsibility for the budget to him.

There was no attempt to draw up a new budget document. Van Wagoner's changes were presented to the lawmakers through a series of bills written in the budget office under the supervision of the new director. This new fiscal schedule increased public school aid and added several million dollars for public health, mental hygiene, and public welfare services. The differences between the policies of Governor Dickinson as represented by the budget estimates and those of Governor Van

³ See p. 92.

Wagoner as shown by the appropriation bills speak loudly in terms of dollars and cents.

TABLE IV

COMPARISON OF ESTIMATES IN DICKINSON'S BUDGET WITH THE BIENNIAL APPROPRIATION BILLS OF VAN WAGONER*

	Budget Estimate	Van Wagoner Bills	Increase
General government.....	\$ 9,170,787	\$ 9,650,466	\$ 479,679
Education.....	68,611,029	75,894,817	7,283,788
Public health.....	9,428,646	9,824,825	396,179
Mental hygiene.....	16,238,973	17,375,221	1,136,248
Public welfare.....	49,021,080	49,856,670	835,590
Adult corrections.....	6,470,228	6,819,870	349,642
Public safety and defense....	3,592,926	3,967,984	375,058
Regulatory services.....	5,931,213	6,070,154	138,941
Conservation and recreation..	2,561,140	2,181,100	-380,040
Agriculture.....	1,064,840	1,534,840	470,000
Debt service.....	1,752,500	12,750,000	10,997,500
Land, structures, improve- ments.....	1,000,781	2,887,865	1,000,781

* Compiled by the author from Leo J. Nowicki's, "Budget Office Summary of General Fund Appropriations, October 14, 1941." (On file in Office of Budget Director, Lansing, Mich.) Comparable figures are not available for other years included in this study.

Although Governor Van Wagoner's bills added approximately \$23.5 million to the budget recommendations submitted by the former administration for the biennium, he did not resort to a special message explaining his increases. Had he prefaced the new bills with an understandable summary statement, the press would have devoted more attention to his recommendations, and the governor might have gained strong public support for his appropriation bills.⁴

That the Michigan budget system lacks comprehensiveness

⁴ Budget Director Nowicki indicated to the author his desire to make future budgets more understandable to the legislature and the public by use of explanatory graphs and charts as well as by a helpful message. The budget cannot be popularized to an extent that it will become light reading, but the intensity of public interest could be greatly increased by "high-light" summaries in simple terms that any citizen can grasp.

has been recognized.⁵ The full force of the constitutional amendments which aggravate this situation was felt for the first time by the Van Wagoner administration. It was voted in 1938 that all taxes imposed on gasoline and all motor vehicle registration taxes should be allocated for highway purposes.⁶ Two years later by another initiated amendment vesting broad powers in a civil service commission, another slice of state funds was removed from budgetary control. To enable the commission to execute its powers, "the legislature shall appropriate for the six months' period ending June 30, 1941, a sum not less than one-half of one percent, and for each and every subsequent fiscal year, a sum not less than one percent of the aggregate annual payroll. . . ." ⁷ The commission was also given power to fix rates of compensation for all classes of positions and approve or disapprove disbursements for all personal services. It was the contention of the Civil Service Commission that the civil service salary for a particular job might supersede the rate fixed by the legislature.⁸ When the attorney general was called upon to give an opinion on this point he declared: "It cannot be contended that the civil service amendment took away from the legislature the power to appropriate money."⁹ In the case of *Civil Service Commission vs. Auditor General*, the Supreme Court upheld the right of the Civil Service Commission to fix rates of pay for state employees, but the court assumed that "there are sufficient funds appropriated" to meet the increases. The question of

⁵ See p. 108.

⁶ *Mich. Constitution*, 1908, Art. X, sec. 22.

⁷ *Ibid.*, Art. VI, sec. 22.

⁸ Because the administration upheld this interpretation of the civil service amendment, the legislature, when it reconvened for final adjournment, was not called on to furnish additional money to meet higher salary scales decreed by the commission. *The Ann Arbor News*, October 10, 1941, p. 12.

⁹ At the second special session in February, 1942, a deficiency appropriation bill was passed but with a provision that none of the money could be expended to cover pay increases to employees who receive more than \$195 a month. The opinion was obtained by Auditor-general Brown as a step preliminary to friendly litigation in the State Supreme Court, and the law was subsequently declared unconstitutional in the case of *Civil Service Commission vs. Auditor General*, 302 Mich. 673 (1942).

whether the commission has the right to order increases which would cause an overdraft of an appropriation is left unsettled.

THE BUDGET IN THE LEGISLATURE

The budget in Michigan has been contrasted with that of Maryland and other states that have effective restrictions on legislative changes in executive proposals, for it constitutes only a recommendation for appropriations and the legislature may make either increases or decreases. Van Wagoner's budgetary bills not only lacked the protection of procedural obstacles to legislative change, but they were without the safeguard of a legislative majority favorable to the governor.

Because of the vital position of the chairmen of committees in the legislative process, the relationship of the administration to the chairmen of the finance committees in each house is important. Early in the 1941 session, Chairman Espie of the ways and means committee suggested that the legislature might follow the budget of the outgoing Republican governor. When the committee seriously set to work, Espie co-operated with the Democratic budget director.¹⁰ Nowicki had made many friends in the Senate when he was lieutenant governor in 1937-39, among them was Don Vander Werp, chairman of the finance and appropriations committee. Not only the chairman but other members of the committee as well had confidence in the program of the budget office.

Each house of the legislature, however, revealed its underlying jealousy over its own part in the appropriating process when the two houses refused to work together in a joint committee on appropriation bills.¹¹ The lower house proposed that the work

¹⁰ Interviews with the budget director and Mr. Espie.

¹¹ J. W. Sundelson pointed out (*Budgetary Methods in National and State Governments*, N. Y. State Tax Comm. Special Rept., No. 14 [1938]: 449 ff.) that the list of states that operate permanently with some joint committee activity on budgetary matters is extensive. There is no doubt that the best financial interests of the state are helped by having both houses served by a joint committee thereby cutting duplication and making greater efficiency possible. This same writer believes the ideal arrangement would be a joint committee that would analyze both revenue and expenditure items.

on the budget bills could be expedited if undertaken jointly, but the chairman of the Senate's finance and appropriations committee refused to co-operate on the ground that each legislative chamber had "its own point of view." In the light of this independent attitude, it was to be expected that the legislature would exercise fully its prerogative to revise the governor's program.

The legislature followed precedent as well as the budget office by abandoning early in the session the idea of a single budget bill. *The Detroit News* commented editorially to the effect that multiple bills facilitated the pleasant procedure of voting for all popular appropriations and shrugging off responsibility for the grand total at the end of the session. The *News* concluded: "A single budget bill, matching projected expenditures with projected revenues, is an obvious requirement of any rational budget system. A reversion to the jolly idea of multiple appropriation bills will strengthen the demand for budget reform in Michigan."¹²

Inspection trips, a feature of the traditional legislative procedure in Michigan, were taken by the lawmakers in considering budget bills in the 1941 session. In April the Senate finance committee made a junket to the Upper Peninsula to visit state institutions in that region. With the Senate's membership meanwhile reduced, it was impossible for that body to proceed with bills that were controversial. One member of the legislature commented: "They probably won't know any more when they get back than before they left."¹³ The members of the committees justified these visitations on the grounds that the legislature cannot rely on the judgment of the budget director alone as to the needs of the institutions.¹⁴

¹² *The Detroit News*, January 19, 1941, p. 6.

¹³ *The Ann Arbor News*, April 16, 1941, p. 2.

¹⁴ These trips were evaluated in the *Report of the Michigan Budget Commission of Inquiry 1918* (Fort Wayne, Ind., 1918), p. 5: "As a usual thing, the time spent by the committee at the institution is wholly inadequate for getting anything but meager information, and most of that is furnished by executive officers of the institution. Furthermore, the members of the committee are not usually men who have made a study of state governmental business and financial affairs. It should not be expected, therefore, that they gain very much

The propensity of the legislature to be independent of the governor's recommendations is goaded on by lobbyists. Pressure groups have displayed the customary activity in Michigan generally and did in this session particularly. The chairman of the ways and means committee emphasized that lobbies were equally as active in the appropriation sphere but not as ruthless as in other fields.¹⁵ Corridor lobbying by heads of state services is accepted practice in Michigan, and in the session under consideration the spending agencies were especially busy in their own behalf. Groesbeck was the only governor able to stop this undermining of his program.¹⁶ Some governors have sought to counteract this activity by conducting lobbies of their own.

When the department heads are of one party and the governor of another, as was the case in 1941, departmental lobbying can be pursued with greatest effectiveness. The chief executive has no legal means of restraining the departments, and many legislators will lend a willing ear to any plans that will embarrass the governor. The budget office has never had a staff large enough to enable it to have someone on hand at all times to defend its financial recommendations. Nevertheless, the interests of the Van Wagoner administration were guarded by the constant attendance of the budget director at the committee hearings and by his personal contact with legislators. He had a chair reserved for him in both committee rooms and was in constant attendance at hearings. Lobbyists' demands for increases in their favored agency were directly challenged. The committee was made cognizant of the comparative needs of all services when the budget director conducted his "cross examinations." The committees co-operated with the administration and considered correlative needs of all agencies. It was also believed wiser to follow the governor's requests than to force him to employ his veto.

knowledge as to actual conditions, other than what they are told, by a few hours' visitation."

¹⁵ Interview with Representative John Espie, December 27, 1941.

¹⁶ See p. 89.

In spite of Nowicki's efforts, and the co-operation of the finance committees, recognition of comparative needs was overridden by partisan consideration. The Attorney General's Department received \$107,000 more than it had in the previous biennium and reached an all-time high. The legislature was not as considerate of the committees' reports as the latter had been of the governor's bills. On third reading, large increases were voted. The appropriations which finally passed through Michigan's legislature considerably exceeded the amounts recommended in the governor's bills.

TABLE V

COMPARISON OF APPROPRIATIONS IN THE GOVERNOR'S BILLS AND IN THE ENROLLED ACTS AS PASSED BY THE MICHIGAN LEGISLATURE IN 1941

	Governor's Bill	Enrolled Act	Increase
General government.....	\$ 9,650,466	\$10,462,923	\$ 812,457
Education.....	75,894,817	80,482,541	4,587,724
Public health.....	9,824,825	10,736,625	911,800
Mental hygiene.....	17,375,221	17,653,857	278,636
Public welfare.....	49,856,670	50,034,494	177,824
Adult corrections.....	6,819,870	6,860,860	40,990
Public safety and defense....	3,967,984	4,597,234	629,250
Highways.....	637,250	637,250	
Regulatory services.....	6,070,154	6,309,790	239,636
Conservation and recreation.	2,181,100	2,765,100	584,000
Agriculture.....	1,534,840	1,584,840	50,000
Debt service.....	12,750,000	7,750,000	-5,000,000
Land, structures, improve- ments.....	2,887,865	5,352,290	2,464,425
Miscellaneous.....		175,740	175,740

The gross amount by which the legislature increased appropriations for thirteen of the fourteen budgetary headings equalled \$10,952,482. The lawmakers refused to appropriate the full amount Van Wagoner requested for debt retirement, and instead distributed the sum by which they reduced debt service (\$5 million) to the spending agencies. This resulted in a net increase of \$5,952,482 in the appropriations of the enrolled

acts over those in the governor's bills.¹⁷ In spreading these increases the pattern of previous sessions was followed. Because the executive and legislative branches were of different political stripes, it is surprising that the administration's bills were adhered to as much as they were.

THE VETO

Throughout the session Governor Van Wagoner used the threat of veto in an effort to keep the lawmakers from appropriating in excess of estimated revenues. They in turn criticized the budget director's conservative estimate of revenues, for Michigan's sales tax receipts reflected the national defense program. Legislative leaders recognized, however, that current rising revenues might not last throughout the biennium. In their hunt for a "stop-gap," the questionable legislative stratagem was suggested which had given Governor Fitzgerald power to reduce allotments pro rata in 1935 and permitted Governor Murphy to make nonuniform reductions to keep total expenditures within total available revenues in 1937. The Republican speaker *pro tempore* declared that a Republican-dominated legislature "never would go" for any suggestion that a law be enacted giving Van Wagoner authority to make a percentage cut in appropriations. It was the lawmaker's contention that "the legislature is responsible for drawing up the budget and it should be responsible for what happens to it."¹⁸ Governor Van Wagoner realized that he would be held responsible, as other governors before him had been, for deficits caused by legislative increases in appropriations, and he was determined to start the biennium with appropriations no higher than estimated revenues.

Without hope of a more flexible means of cutting appropriations, the governor resorted to the item veto to restore appropriations to his original recommendations. In considering the twenty-five separate budget bills, Van Wagoner conferred with

¹⁷ An enrolled act is the bill as passed by both houses of the legislature, which is presented to the chief executive for signature.

¹⁸ *The Ann Arbor News*, March 15, 1941, p. 2.

Nowicki whose office had analyzed all appropriations as they passed and compiled recommendations for vetoes. Following these suggestions, he made slashes in ten of the money bills, vetoing a total of thirty-four items. Each division of the budget came in for some reductions except "debt service" which had been cut by the legislature to one-half the original request. Although the vetoes were widely distributed, the largest retrenchment (\$2,550,000 out of vetoes totaling \$3,440,824) was made in the building program.¹⁹

On May 27 the legislature, after completion of the regular legislative program, passed a concurrent resolution to recess until July 8 and to adjourn *sine die* July 9. This traditional practice weakens the veto power over bills passed in the closing days of the session, for the legislature is assured an opportunity to reconsider all vetoed measures when it reconvenes for final adjournment. Ordinarily, there is not a quorum present for the final adjournment. However, on July 8, 1941, the Republican members, incensed by the vigorous exercise of the veto power, followed their legislative leaders back to the state capitol.²⁰ Fully aware of what was about to happen, the Democratic governor rallied his forces in a dinner meeting at which he presumably asked the Democrats to sustain his vetoes. When the vetoes were reconsidered in the House, the large Republican majority commanded two-thirds of the votes and thereby overrode vetoes amounting to \$1,776,324, but no Democrat voted against

¹⁹ Budget Director Nowicki justified this action because of expected shortages in building materials owing to the defense emergency. *The Ann Arbor News*, June 16, 1941, p. 2. The governor's bill as introduced had provided \$2,887,865 for building purposes for the biennium, and the bill as passed appropriated \$5,352,290. The vetoes had reduced it to \$2,802,290 or less than the original recommendation.

²⁰ Much of the legislative hostility resulted from a veto of the antichain banking bill as well as from the budget vetoes. According to one member of the ways and means committee, the Republicans would not have resented these item vetoes to quite the extent they did had the governor consulted the majority before he started pruning. Some vetoes should have been expected for the governor had repeatedly warned the legislature that he would use this power if their appropriations exceeded the estimated revenues.

the governor. In the Senate nine of the ten Democrats upheld the chief executive and were able with the help of four Republicans to prevent repassage of the vetoed bills. Whether the governor threatened or cajoled at his dinner is immaterial, but it is significant that his political powers were effective in buttressing his constitutional veto. The Republican leaders refused to concede defeat. After party caucuses and "cloakroom maneuvering," the House rescinded its rules and passed a resolution calling for a three months' recess rather than adjournment. It was hoped that by this move the governor would be induced to give way on some of his vetoes, but he was adamant.²¹ The Republican majority was able to carry out its threat, and the resolution to recess until October 8 passed the Senate by a majority of one vote.

This action embarrassed the governor in several ways: He had to face the continued possibility of an investigation of the Democratic State Highway Department; he could not remove holdover Republican job holders; and a special session limited in its considerations to the subjects specified in his call could not be summoned. He was not the only one adversely affected by the recess. Public antagonism was directed against the legislators who by their action delayed the effective date of 266 statutes for ninety days.²² Pressure groups which had labored hard to secure passage of certain bills were impatient when their benefits were postponed. The press reflected the irritation felt by the public. Speaking of the recess *The Detroit Free Press* commented editorially:

The effects will be deplorable. Michigan may lose approximately \$5,000,000 in Federal old-age assistance matching contributions. The

²¹ When representations from both houses visited the executive office, the governor told them he was not interested in any deals: "They had the right to override my vetoes if they could, but they couldn't. That's all there is to it." *The Detroit News*, July 10, 1941, p. 4.

²² *Mich. Constitution*, 1908, Art. V, sec. 21: "... No act shall take effect or be in force until the expiration of ninety days from the end of the session at which the same is passed, except that the legislature may give immediate effect to acts making appropriations and acts immediately necessary for the preservation of the public peace, health or safety by a two-thirds vote . . ."

new State Revenue Department cannot be set up. The anti-sabotage law goes over. The status of a number of appropriation bills is left in doubt. New hunting laws are suspended. This is an intolerable situation. Michigan citizens know little and care less about the grievances involved in the political Donnybrook. But the state cares a great deal about whether its vital interests, as represented by legislation approved in the legal manner and according to democratic processes, are recklessly tramped upon [July 11, 1941, p. 9].

Pressure by the special interests, and the general disapprobation, eventually brought about a reconciliation between the executive and the legislature.

Three attempts were made to bring about a disposition of the legislative business. In the first two instances, the Republicans made the overtures, while the governor's attitude remained unchanged. Early in October, Van Wagoner went on a trip around the state ostensibly to visit state institutions. On his itinerary he held conferences with the Republican speaker of the House and floor leader. When the legislature met on October 8, the results of this third effort at compromise were revealed. The governor consented to the overriding of ten of his item vetoes amounting to \$726,324—a little over one-fifth of the \$3,440,824 originally deleted by his vetoes. The governor further gave the Republican leaders the unprecedented promise that he would not exercise his constitutional power to call a special session unless they approved the subjects to be considered. Fifty-five laws, the effective date of which had been delayed by the recess, were given immediate effect through legislative procedure of disputed legality.²³ In turn the legisla-

²³ Republican Attorney General Rushton advised that it is outside the province of the legislature to give immediate effect to acts after they have been signed by the governor and deposited with the secretary of state. A test case was taken before the Supreme Court in which the United Insurance Company filed a petition for a writ of mandamus to force the insurance commissioner to issue a certificate to that Illinois company to do business in Michigan under an act passed in the 1941 session and given immediate effect subsequent to its signing by the governor. Rushton's opinion was upheld by the Court in a unanimous decision, January 5, 1942. *United Insurance Company v. Attorney General*, 300 Mich. 200 (1942).

tors abandoned the plan to recess throughout Van Wagoner's administration and agreed to adjournment, with its attendant advantages for the governor.²⁴

Van Wagoner achieved some success in using the veto power as it was intended to be used, that is, to correlate appropriations with budgetary proposals. As has been pointed out, this was somewhat unusual in Michigan experience.²⁵ The appropriations for the biennium adhered closely to the governor's original proposals:

TABLE VI
COURSE OF APPROPRIATION BILLS, 1941 SESSION

Governor's original appropriation bills.	\$228,557,786*
Enrolled acts.	234,510,268
Enrolled acts minus vetoes.	231,069,444
Final laws.	231,831,768

* These totals include appropriations from the General Fund, Primary School Fund, and Game and Fish Protection Fund.

CONCLUSION

Governor Van Wagoner, in determining appropriations in this session of the legislature, was almost entirely dependent upon the mechanisms of the budget and the veto. He was not able to use extraconstitutional devices as effectively as had his predecessors. He was a member of the party which was a minority in the legislature, and although he had his spokesmen there, his men were not in the customary positions of leadership afforded by chairmanships of committees. The governor's extraconstitutional influence was further affected by the adoption of the civil service amendment and the Republican control of several of the elective state offices. He was fortunate, however, in having a budget director who was popular with members of the legislature and familiar with their outlook, and

²⁴ His willingness to compromise in October, unlike the official attitude in July, was explained by the governor: "Most of these measures I had believed desirable, but I had felt that we could not afford them. This week I believed that we could recede somewhat in view of the better financial position of Michigan today." *The Detroit News*, October 11, 1941, p. 1.

²⁵ See Chap. III.

who therefore was directed to assume the major responsibility for bills in the two houses.

The plight in which the governor found himself because of a lack of a majority in the legislature was not entirely to his disadvantage. The responsibility for the financial program of the state was more clearly placed in 1941 than at any other time in the past twenty years. He was in a position to remind the Republican legislature of their economy platform and threatened to make political capital out of any tendency on their part to indulge in free spending. His financial policy and the changes made by the legislature in its enactment were given wide publicity because of their political differences. When the legislature and the governor are of the same party, the governor's program may be less affected in its enactment, but if the legislature does make embarrassing increases, confusion in the public mind may place the whole responsibility upon the executive. This session was unique in the opprobrium which was heaped upon the legislature during the recess.

If the governor is to be considered responsible for the financial condition of the state, his control should not rest upon tenuous party leadership or the uncertain support of public opinion. Far-reaching budgetary reform and a restoration of the correlative executive veto to its full usefulness are necessary.

IX

SUMMARY AND CONCLUSIONS

THE ROLE OF THE GOVERNORS of Michigan in the enactment of appropriations has been considered in relation to the various points of contact which the governor has with that process. It is now possible to review the findings and present a composite picture of the governor's means of influencing appropriations. Upon the basis of these findings certain suggestions are offered which, it is believed, would strengthen the position of the executive and bring about more responsibility in this aspect of state government.

SUMMARY

1. A study of the messages of the governors indicates that the chief executives have apparently been more interested in the appropriations during the last twenty years than in the years prior to 1920. Included in the communications to the legislature are found many recommendations for specific expenditures and economies. The high percentage of these proposals which were enacted into law is one evidence of the governor's influence on appropriations.

2. The governor's power to call special sessions and limit considerations therein to matters he specifies has given him greater control over appropriations than is commonly realized. Approximately two-thirds of the extraordinary sessions called in the last two decades were to deal with financial problems. Biennial consideration of appropriations and depression problems have been the reasons for these special meetings. The extraordinary conditions which have made it necessary to call these sessions usually demand that appropriations be made immediately to alleviate hardship. Under the circumstances the legislature has little alternative but to accept the governor's program. If the legislature does not fulfill his requests in one special session, further calls reinforced by public opinion have yielded the desired results.

3. The enlargement of the veto power through the adoption of the item veto has afforded the governor another opportunity to affect appropriations. Some governors, Green for example, relied in large measure upon it to make appropriations correspond to their desires. For more than twenty years the broad executive interpretation that the item veto included the power to reduce items went unchallenged in the courts. In 1931 the Supreme Court rejected this point of view, and since that time the governors have found the item veto much less useful, the experience of Van Wagoner notwithstanding. Nevertheless, the legislature has continued to rely upon the governor to "make ends meet." In order to bring financial order out of chaos, his restricted item veto power had to be buttressed in two biennia by collateral statutory devices which allowed him to prorate and reduce appropriations.

4. Since 1918, when Michigan accepted the budget idea, the governor has been in a position to initiate a financial plan. It might be expected that this initiative in appropriation legislation would have placed the governor in the dominant role. However, the budget has not given him the anticipated leadership. It was ten years after adoption before its potentialities were even partly realized. Other factors have prevented the full utilization of the executive budget system. The budget has not been comprehensive, and many appropriations which are budgeted are illusory, for they represent claims on assigned revenues. Although the budget supposedly represents the financial program of the incumbent governor, very few times in recent years has the document presented to the legislature been formulated by the executive who, with the legislature, was responsible for the enactment of appropriations for the ensuing biennium. This anomaly is the result of the requirement in the budget law that the document must be submitted a few days after the new governor takes office. Further, there are no limitations placed upon the legislature's power to appropriate without consideration for the executive budget. Special appropriations are often passed before the budget bills. The legislature, unlike its finance committees, has been somewhat

irresponsible in increasing figures above the gubernatorial recommendations. The failure to incorporate all budgeted appropriations in a single bill makes it possible for generous amendments to be made at the third reading of various money bills without it becoming obvious that a balanced budget cannot be achieved. Because the governor is not the chief administrator, certain agencies have lobbied for their original requests against the sum recommended for them in the budget. This habitual practice is particularly destructive when the governor and the legislature are of different political faiths. Despite these difficulties, when recommendations have been made by the governor in the budget, they have received careful consideration by the legislature in making appropriations.

5. Although the making of emergency appropriations has been handled by three different groups, the governor has been the only one continuously involved in the process. Although emergency appropriations have constituted a small part of total appropriations, the governors have been the strongest single influence upon them. Perhaps this is the reason that the legislature has gradually assumed a greater role and has limited the amount available for this use.

6. More important to the governors than any single one of the powers mentioned above is the extraconstitutional legislative power which they possess. Some governors have been more adroit than others in distributing patronage, exerting party leadership, and employing other political stratagems; but it should be emphasized that every governor considered has depended upon these things to be sure that his ideas on expenditures would be incorporated into law. Michigan is becoming a two-party state, but failure to reapportion assures the Republicans continued domination in the legislature. Keeping in mind the importance of these extraconstitutional factors and their dependence in turn upon the governor and the legislature being of the same party, one realizes that the position of some governors in the future may well be less influential than that of their earlier predecessors. Governor Murphy discovered that even a party label is not always a guarantee of loyalty.

The adoption of a constitutional merit system removes a powerful weapon from the governors. Executives in the future who are without patronage and a legislative majority will be in an intolerable position unless their legal powers in regard to appropriation are bolstered. Their only recourse may be to publicize their policy and convince the public of its soundness. Then the popular temper may rise against partisan legislative obstructionism as it did in 1941.

The conclusion must be that although the power of the purse is still in legislative hands, the governor has been able to tighten or loosen the purse strings through the exercise of his legal and extralegal powers. It would be a mistake, however, to assume that by virtue of his influence the governor has control as well. The legislative and executive departments have been blended in the appropriation process to a point where confusion exists as to which is responsible for state finances. In the public mind the governor has been held responsible to a far greater extent than his powers warrant. Because responsibility has not always been evident, governors have been criticized as spendthrift when the legislators were at fault. Governors Fred W. Green and Frank Murphy suffered from such misdirected criticism. In a democratic state to ensure popular control the lines of responsibility should be clearly drawn. In reality the problem comes down to this: in which branch of the government shall the greatest trust be placed and hence fortified with increased powers? The constant tendency has been to increase the power of the governor in this sphere in other states.

CONCLUSIONS

Here again, as in so many problems in state government, the fundamental difficulty relative to appropriations is traceable to separation of powers. This principle precludes an easy solution, for it tends to discourage co-operation between the legislature and the executive. The confusion persists that our liberties are dependent upon separation of power and checks and balances. The eminent constitutional scholar, C. H. McIlwain, has proved that there is little background for this belief. He has written:

Among all the modern fallacies that have obscured the true teachings of constitutional history, few are worse than the extreme doctrine of separation of powers and the indiscriminate use of the phrase checks and balances. . . . The true safeguards of liberty against arbitrary government are the ancient legal limitations and modern political responsibility. But this responsibility which in modern times has become fully as important for our welfare as the ancient legal limits, is, I think, utterly incompatible with any standard of checks and balances.¹

The most satisfactory relationship between the legislature and the executive in the matter of appropriations was proposed by Frederick A. Cleveland and A. E. Buck more than twenty years ago. They advocated establishment of executive responsibility in the realm of finance through a far-reaching budgetary reform. Briefly, they advised the preparation of a work program by the executive, the right of the executive to appear and defend this program before the legislative body, and some limitation of the right of the legislature to amend this program. They also suggested that an appeal might be made to the people by the executive in the event that the latter's program is seriously mutilated.

This plan is essentially the appropriation process of the British government superimposed upon the nonparliamentary system of American state government. In its work of passing money bills the British House of Commons closely follows the lead of the executive. The Chancellor of the Exchequer presents annually a carefully balanced statement of the amounts necessary to support the various government services and an estimate of the taxes which will be required to meet the total. The Parliament has an inflexible rule that it will make no appropriation of money not requested by the Ministers, that it will increase no amount above what was recommended. If such changes were made, the Cabinet could dissolve the House and appeal to the electorate in support of their policies. Under this system, "log-rolling" and irresponsible expenditure are ren-

¹ *Constitutionalism, Ancient and Modern* (Ithaca, N. Y.: Cornell Univ. Press, 1940), pp. 144-45.

dered well nigh impossible, and since the executive guides policy in both income and expenditures, a remarkable balance between the two can be obtained.

In the last twenty-five years, the American states have taken forward steps in budgetary legislation, and the conclusion reached in the most complete study of the American governor was that the executive budget, perhaps more than any other single factor, has strengthened executive authority.² Full adoption of English budget procedure would meet strenuous objection in Michigan in 1942 and would be rejected as revolutionary and destructive to Montesquieu's dogma of separation of powers, which is incorporated in our federal and state constitutions.

It is scarcely feasible to transplant the "foreign" budget system to this state *in toto*, desirable as a greater measure of executive control might be. An adaptation of English budget principles to American conditions can be accomplished, however, without the introduction of the parliamentary type of government. A solution of the problem is offered in the *Model State Constitution* prepared by a committee of experts for the National Municipal League in 1941.³ Therein it is provided that the governor shall propose a comprehensive budget and submit it to the legislature three months before the opening of the fiscal year. At the same time a single appropriation bill authorizing the proposed expenditures in the budget is required of the executive. The legislative power over appropriations is

² L. Lipson, *The American Governor . . .* (Chicago, 1939), p. 243.

³ *Model State Constitution with Explanatory Articles* (New York City: Nat. Municipal League, 1941), Art. VII, pp. 15-17. English budgetary procedure was first fitted into American practice in the Confederate constitution of 1861. *Constitution of the Confederate States of America*, Art. I, sec. 9, quoted in Jefferson Davis, *The Rise and Fall of the Confederate Government* (Richmond: Garret and Massie, Inc., 1938), Appendix K, p. 568. Therein it was provided that proposals for expenditure should originate with the chief executive while Congress, with two unimportant exceptions, was forbidden to initiate appropriations unless they were authorized by a two-thirds vote of both houses. The president was given the item veto with which to defend his budget estimates.

complete. That body is free to alter the budget so long as a balanced plan is maintained. No special appropriation bill can be passed by the legislature, however, until the general appropriation bill has been enacted, unless the governor recommends an emergency appropriation. It is maintained that the introduction of the appropriation bill and the procedural limitations on the legislature prevent the lawmakers from treating the governor's budget simply as an administrative report.⁴ The governor may be required by one-fifth of the members of the legislature to appear before that body to explain and answer inquiries with respect to the budget. As a safeguard against ill-advised changes in the general appropriation bill, the executive is given the power to strike out or reduce items. These provisions offer a model for Michigan which would give the governor adequate control over appropriations without too greatly curtailing the power and usefulness of the legislature.

Of course, in Michigan the executive has enjoyed the right to veto items and prepare an executive budget, but the results obtained have not been satisfactory. The item veto has developed outside of, rather than as an essential part of, a properly adjusted budget plan. The historical roles of the executive and the legislature in the appropriation process have been reversed. The traditional function of the legislature is to check executive extravagance, whereas in Michigan the legislature has often been the initiator of appropriations and the executive, with his incomplete power of veto, the check.

The weaknesses in the Michigan budget system and the item veto must be overcome if the "model plan" is to be approached and the two departments of government restored to their proper roles. The executive budget plan of the model state constitution rests upon the assumption that the state administrative machinery should be integrated and placed under direct control of the governor. The destructive influence of departmental lobbies on executive budgetary recommendations in Michigan makes apparent the direct and intimate connection between the in-

⁴ *Ibid.*, p. 44.

tegration of administration and the establishment of real budgetary procedure.⁵

If the administration were integrated, the legislative propensity to increase appropriations over executive recommendations would be lessened. If administrative reorganization does not centralize responsibility in the governor, other plans for protecting the governor's recommendation should be considered. Among these are provisions for so restricting the legislature that it could not increase but only allow or decrease the governor's expenditure proposals. The budgetary section of the Maryland constitution places such a limitation on the legislature. New York has adopted a similar constitutional provision, but in a somewhat modified form, the legislature being permitted to increase the governor's budget by adding separate items which the governor may later strike out. The experience in these states has not been entirely satisfactory.⁶ Legislative restrictions might better be self-imposed by statute, procedural rule, or tradition. Inasmuch as increases are frequently made without deliberation at the third reading of appropriation bills despite the sincere economy efforts of the committees, the legislature could deprive itself of the right to amend at this stage. In any case, if increases are made by the lawmakers additional revenue to provide for the added expenditure should be mandatory.

It is generally agreed that the governor should be vested with complete responsibility for the preparation of the budget.

⁵ *Constitutional Convention Bull., Ill. Legislative Reference Bur.* No. 4 (1920). W. F. Dodd later declared that "in order to enforce the governor's responsibility for budgetary proposals, and for expenditures by his own department, the legislature must look to the governor alone for advice with respect to the financial policy of the executive department. This is out of the question unless the governor so controls his administrative organization that there is no lobbying behind his back in order to obtain greater appropriations than those to which he has consented in the submission of his budgetary program." *State Government* (New York, 1928), p. 460.

⁶ A. E. Buck, *The Budget in Governments Today* (New York: The Macmillan Co., 1934), p. 91.

The present handicap which newly elected Michigan governors have in not being able to make their views effective in the basic preparation of the budget can be corrected. The statutory filing date of the biennial budget should be changed so as to fall six or eight weeks after the inauguration. Another advantage inherent in this change is that it would facilitate better financial planning and close the gap between submission of the budget and the opening of the new fiscal period. For example, it would become possible to forecast more accurately sales tax yields.

The governors should make the submission of the budget to the legislature the "political highwater mark" of the legislative session.⁷ It should be a most important occasion, as is the case when the President delivers his annual budget message to Congress. The annual budget is an "appalling document" to the layman, but if in plain language, it will dramatize the political life in the state. Alfred E. Smith, as governor of New York, described the categories of money with the phrases "raised by" and "spent by" for the traditional "receipts" and "disbursements" and by the use of other common expressions his financial reports competed for space on the front page of newspapers.⁸

Governors of Michigan have customarily submitted the original requests of the spending services to the legislature with their own recommendations. This practice might be discontinued for two reasons: it tends to raise an issue between the chief executive as general manager and his subordinate administrative officers; further, since the requests are in most instances in excess of the recommendations, the legislature is encouraged to ignore the governor's figures or to increase his proposals.⁹

There are several other ways in which executive control over

⁷ *Ibid.*, p. 198.

⁸ Wylie Kilpatrick, *Reporting Municipal Government* (New York: Municipal Admin. Service, 1928), pp. 21-22.

⁹ Brookings Institution, *Report on a Survey of the Organization and Administration of State, County, and Town Governments of New Hampshire* (Washington, 1932). Quoted by J. W. Sundelson, *Budgetary Methods in National and State Governments*, N. Y. *State Tax Comm. Special Rept.*, No. 14 (1938): 306-7.

appropriations might be strengthened. The budget should be made thoroughly comprehensive, and the practice of earmarking revenues for some specific purpose should be discontinued. The budget should be passed as a single act and be given priority over any special appropriation bills except emergency bills recommended by the governor.¹⁰

It also appears desirable that executive powers with respect to the item veto be enlarged. This is especially necessary to the governor if the legislature is allowed to increase his budgetary proposals. Appropriation bills have never been itemized to an extent that would allow the governor to make full use of his item veto. Further itemization of these bills, however, would unduly restrict the administration in spending the allotted money. Vesting the governor with the right to reduce items as well as to eliminate them offers a satisfactory solution.

If these changes in the budget system and the veto were made, the governor could then be held fully responsible for appropriations. Clear-cut responsibility is necessary if the people are to control their state government. The conspicuous position of the governor makes it possible for the electorate to follow him in the exercise of his increased powers. Thus, the principle of popular rule would be safeguarded by the elimination of existing confusion. Furthermore, the legislature retains the ultimate power of granting or withholding funds. In addition to performing the important and essential function of submitting the executive policy to careful scrutiny before approving it, the legislature might establish a more efficient system of postaudit of the expenditure of the funds it appropriates.

¹⁰ California, *Constitution*, Art. IV, secs. 16 and 34.

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 The Detroit News
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APPENDIX A

TABLE VII

GOVERNORS AND THEIR BUDGET DIRECTORS

Governor	Term	Budget Director	Dates of Service	Length of Time
Sleeper	1919-21	George C. Scott	Nov. 15, 1919- Nov. 30, 1919	2 weeks
		Charles R. Foote	Dec. 1, 1919- Mar. 8, 1921	1 year 3 mos.
Groesbeck	1921-27	Henry Croll	Mar. 8, 1921- Dec., 1926	5 years 10 mos.
Green	1927-31	George R. Thompson	Apr., 1927- Dec., 1930	3 years 9 mos.
Brucker	1931-33	George R. Thompson	Jan., 1931- Dec., 1932	2 years
Comstock	1933-35	George R. Thompson	Jan., 1933- Sept., 1933	9 mos.
		Burnett J. Abbott ¹	Sept., 1933- Dec., 1934	1 year 3 mos.
Fitzgerald	1935-37	George R. Thompson	Jan., 1935- Dec., 1936	2 years
Murphy	1937-39	George R. Thompson ²	Jan., 1937- May, 1937	5 mos.
		Harold D. Smith	May, 1937- Dec., 1938	1 year 7 mos.
Fitzgerald	1939	Harold D. Smith	Jan., 1939- Apr., 1939	4 mos.
Dickinson	1939-41	Grover C. Dillman	Apr., 1939- Sept., 1939	6 mos.
		Gus T. Hartman	Sept., 1939- Dec., 1940	1 year 4 mos.
Van Wagoner	1941-	Leo J. Nowicki	Jan., 1941- Oct., 1942	1 year 10 mos.

¹ Burnett J. Abbott was serving as secretary of the Administrative Board at the time of his appointment and continued to hold both offices for the duration of the biennium.

² Thompson held the post a total of nine years.

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